AUTHENTICATED
U.S. GOVERNMENT
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FEDERAL REGISTER

Vol. 80 Monday,
No. 16 January 26, 2015

Pages 3865–4194

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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Federal Register

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 37, 73, and 150

[NRC–2012–0140]

RIN 3150–AJ18

Safeguards Information—Modified Handling Categorization; Change for Materials Facilities

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date, NUREG issuance, and correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of January 28, 2015, for the direct final rule that was published in the **Federal Register** on September 30, 2014, which amended the NRC's regulations by removing the Safeguards Information—Modified Handling (SGI–M) designation for certain security-related information. The NRC is also announcing the availability of implementation guidance for the direct final rule, and correcting the ''Compatibility Table for Direct Final Rule'' appearing in Section V, ''Compatibility of Agreement State Regulations,'' of the direct final rule.

DATES: *Effective date:* The effective date of January 28, 2015, for the direct final rule published September 30, 2014 (79 FR 58664), is confirmed. The correction of the ''Compatibility Table for Direct Final Rule'' is effective January 26, 2015.

ADDRESSES: Please refer to Docket ID NRC–2012–0140 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–2012–0140. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may 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.*
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Vanessa Cox, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8342, email: *Vanessa.Cox@nrc.gov* and Michelle Killian, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6711, email: *Michelle.Killian@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Confirmation of Effective Date

On September 30, 2014 (79 FR 58664), the NRC published a direct final rule amending its regulations in parts 30, 37, 73, and 150 of Title 10 of the *Code of Federal Regulations* (10 CFR) by removing the SGI–M designation of the security-related information for large irradiators, manufacturer and distributors, and for transport of category 1 quantities of radioactive material. The direct final rule also removed the SGI–M designation of the security-related information for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The security-related information for these facilities and the transportation of certain materials will no longer be designated as SGI–M and will be protected under the information protection requirements that apply to other materials licensees that possess category 1 and category 2 quantities of radioactive material.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on January 28, 2015. The NRC received one public comment from an anonymous commenter (ADAMS Accession No. ML14302A494) on the companion proposed rule. The commenter stated that the rule should be amended because it will require an additional information protection requirement on the product. The commenter also stated that the additional requirement would be needed so that the information relating to the product ''would not get leaked.'' The NRC staff reviewed this comment and concluded that this comment is not a significant adverse comment as defined in NUREG–BR–0053, Revision 6, ''United States Nuclear Regulatory Commission Regulations Handbook'' (ADAMS Accession No. ML052720461), because the comment does not present a reason or issue that warrants a substantive response. The comment does not aid the NRC's understanding of any concern with the NRC's decision to remove the SGI–M designations from some categories of information. Information that merits protection now falls within the information protection provisions of 10 CFR part 37. Therefore, this direct final rule will become effective as scheduled.

II. Availability of Guidance

The NRC is issuing revised NUREG–2155 (Rev 1), ''Implementation Guidance of 10 CFR part 37, 'Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material,' '' to conform the guidance to the direct final rule by removing references to the SGI–M designation and to make minor editorial changes and updates. The guidance is available in ADAMS under Accession No. ML15016A172.

III. Direct Final Rule; Correction

In the **Federal Register** (FR) on September 30, 2014, in FR Doc. 2014–23256, on page 58669, the following corrections are made to the table entitled, ''Compatibility Table for Direct Final Rule:''

1. In the column entitled, ''Existing,'' in the seventh row, correct the

compatibility category ''NRC'' for § 37.43(d)(1) to read ''C''.

2. In the column entitled, ''New,'' in the seventh row, add compatibility category ''C'' for § 37.43(d)(1).

These minor and administrative changes correct an error in the original document and do not change the substantive responsibilities of any person or entity regulated by the NRC.

Dated at Rockville, Maryland, this 20th day of January 2015.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2015–01253 Filed 1–23–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0587; Directorate Identifier 2013–NM–219–AD; Amendment 39–18059; AD 2014–26–08]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2011–13–09 for all Airbus Model A330–200, –200F, and –300 series airplanes. AD 2011–13–09 required revising the maintenance program to incorporate new limitations and maintenance tasks for certain certification management requirements (CMRs). This new AD requires revising the maintenance or inspection program to incorporate new maintenance requirements and airworthiness limitations. This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

DATES: This AD becomes effective March 2, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 2, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of August 1, 2011 (76 FR 37255, June 27, 2011).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=*FAA-2014-0587; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011). AD 2011–13–09 applied to all Airbus Model A330–200, –200F, and –300 series airplanes. The NPRM published in the **Federal Register** on August 26, 2014 (79 FR 50869).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0245, dated October 2, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A330–200, –200F, and –300 series airplanes. The MCAI states:

> The airworthiness limitations are currently distributed in the Airbus A330 Airworthiness Limitations Section (ALS).
>
> The mandatory instructions and airworthiness limitations applicable to the Certification Maintenance Requirements (CMR) are specified in Airbus A330 ALS Part 3, which is approved by the European Aviation Safety Agency (EASA).
>
> The revision 04 of Airbus A330 ALS Part 3 introduces more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with this revision constitutes an unsafe condition.
>
> For the reason described above, this new AD retains the requirements of EASA AD 2010–0264 [(*http://ad.easa.europa.eu/blob/easa_ad_2010_0264.pdf*)], which is superseded, and requires the implementation of the maintenance requirements as specified in Airbus A330 ALS Part 3 revision 04.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!document Detail;D=FAA-2014-0587-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 50869, August 26, 2014) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed, with minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 50869, August 26, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 50869, August 26, 2014).

Costs of Compliance

We estimate that this AD affects 76 airplanes of U.S. registry.

The actions required by AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011), and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that were required by AD 2011–13–09 is $85 per product.

We also estimate that it will take about 1 work-hour per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $6,460, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2014-0587;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011), and adding the following new AD:

2014–26–08 Airbus: Amendment 39–18059. Docket No. FAA–2014–0587; Directorate Identifier 2013–NM–219–AD.

(a) Effective Date

This AD becomes effective March 2, 2015.

(b) Affected ADs

This AD replaces AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011).

(c) Applicability

This AD applies to all Airbus Model A330–201, –202, –203, –223, –223F –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic inspections.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Revision of the Maintenance Program

This paragraph restates the requirements of paragraph (g) of AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011). Within 90 days after August 1, 2011 (the effective date of AD 2011–13–09): Revise the maintenance program, which ensures the continuing airworthiness of each operated airplane, by incorporating Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 03, dated July 29, 2010. Within the times specified in the Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 03, dated July 29, 2010, comply with all applicable maintenance requirements and associated airworthiness limitations included in Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 03, dated July 29, 2010, except as provided by paragraphs (h) and (i) of this AD.

(h) Retained Exceptions to the Certification Maintenance Requirements (CMR) Tasks

This paragraph restates the requirements of paragraph (h) of AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011). At the latest of the times specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD: Do the first accomplishment of Airbus A330 CMR Task 213100–00001–2–C, Pressure Control Monitoring, of Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 03, dated July 29, 2010.

(1) Before the accumulation of 48,000 total flight hours.

(2) Within 48,000 flight hours after the most recent accomplishment of Airbus A330 Maintenance Review Board Report (MRBR) Task 21.31.00/05.

(3) Within 3 months after August 1, 2011 (the effective date of AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011).

(i) Retained Exceptions to the CMR Tasks

This paragraph restates the requirements of paragraph (i) of AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011). At the latest of the times specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD: Do the first accomplishment of Airbus A330 CMR Tasks 242000–00005–1–C, AC Generation; 243000–00001–1–C, DC Generation; and 243000–00002–1–C, DC Generation; of Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 03, dated July 29, 2010.

(1) Before the accumulation of 12,000 total flight hours.

(2) Within 12,000 flight hours after the most recent accomplishment of Airbus A330 MRBR Task 24.20.00/17, 24.30.00/04, or 24.30.00/05 respectively.

(3) Within 3 months after August 1, 2011 (the effective date of AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011).

(j) Retained Limitation of Alternative Inspections or Intervals

This paragraph restates the limitation specified in paragraph (j) of AD 2011–13–09, Amendment 39–16732 (76 FR 37255, June 27, 2011). After accomplishing the action required by paragraph (g) of this AD, no alternative inspections or inspection intervals may be used, other than those specified in Airbus A330 ALS, Part 3—Certification Maintenance Requirements, Revision 03, dated July 29, 2010, unless the inspections or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m) of this AD.

(k) New Requirements of This AD: Revise the Maintenance or Inspection Program

(1) Within 90 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, to incorporate Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013. Within the applicable compliance time defined in the ''Record of Revisions'' section of Airbus A330

Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013, except as provided by paragraph (k)(2) of this AD, accomplish all applicable maintenance tasks. Accomplishing these actions terminates the requirements of paragraphs (g), (h), (i), and (j) of this AD.

(2) Where paragraph 3 of the ''Record of Revisions'' section of Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013, specifies accomplishing the actions ''from 27 August 2013,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(l) No Alternative Inspections or Intervals

After accomplishing the action required by paragraph (k)(1) of this AD, no alternative inspections or inspection intervals may be used, other than those specified in Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013, except as provided by paragraph (k)(2) of this AD, unless the inspections or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (m) of this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425)227–1138; fax 425 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0245, dated October 2, 2013, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0587-0002.*

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on March 2, 2015.

(i) Airbus A330 Airworthiness Limitations Section ALS Part 3—Certification Maintenance Requirements, Revision 04, dated August 27, 2013. The revision level of this document is identified on only the title page and in the Record of Revisions. The revision date is not identified on the title page of this document.

(ii) Reserved.

(4) The following service information was approved for IBR on August 1, 2011 (76 FR 37255, June 27, 2011).

(i) Airbus A330 ALS Part 3—Certification Maintenance Requirements, Revision 03, dated July 29, 2010. The revision level of this document is identified on only the title page and in the Record of Revisions. The revision date is not identified on the title page of this document.

(ii) Reserved.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330@airbus.com;* Internet *http://www.airbus.com.*

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on December 19, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–30918 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0770; Directorate Identifier 2014–CE–024–AD; Amendment 39–18064; AD 2015–01–03]

RIN 2120–AA64

Airworthiness Directives; PILATUS Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Pilatus Aircraft Ltd. Model PC–7 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as possible cracking from stress corrosion on various parts of the airplane structure made of aluminum alloy AA2024–T351. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective March 2, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of March 2, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0770; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Pilatus Aircraft LTD., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *Techsupport@pilatus-aircraft.com;* internet: *http://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City,

Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to Pilatus Aircraft Ltd. Model PC–7 airplanes. The NPRM was published in the **Federal Register** on October 7, 2014 (79 FR 60389). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. Since the NPRM was issued, the MCAI was revised based on revised service information. The NPRM we issued already referenced the revised service information. The revised MCAI states:

This Airworthiness Directive (AD) is prompted due to the possibility of cracks in some critical parts. It is possible that stress corrosion cracks may occur on various parts of the aircraft structure initially made of aluminium alloy AA2024–T351 which is susceptible to Stress Corrosion Cracking (SCC). Later in production, the material specification was changed to aluminium alloy AA2124–T851 to decrease the risk of stress corrosion. The Part Number (P/N) of the affected structural parts are not always changed when the new material was introduced.

Such a condition, if left uncorrected, could lead to failure of critical parts on the aircraft structure and will prejudice the structural integrity of the aircraft.

To address this potential unsafe condition Pilatus Aircraft Ltd. issued PILATUS PC–7 Service Bulletin (SB) No. 51–001 and FOCA Switzerland issued AD HB–2014–001 to require a one-time check to identify the material specification and inspect the affected areas of the airframe that are made of aluminium alloy AA2024–T351. Any structural parts of the aircraft structure found to be cracked must be reported to Pilatus prior to further flight.

In the meantime Pilatus Aircraft Ltd. issued PILATUS PC–7 SB No. 51–001 Revision 1 to correct paragraphs (§) 1.C.(3) and § 1.D. to update Part Number (P/N) references of the AA2024–T351 material and to add a clarification that an inspection can be carried out if an elevator center control-rod P/N 116.35.07.345 is installed. It also clarifies which center tank support bracket is covered by SB 51–001.

For the reasons described above, this AD retains the requirements of FOCA Switzerland AD HB–2014–001, which is revised and clarifies that an inspection of the elevator center control-rod can be carried out if P/N 116.35.07.345 is installed and corrects some paragraphs and clarifies the information which center tank support bracket is affected.

The MCAI also requires replacement of the elevator center control-rod, P/N 116.35.07.271 or 116.35.07.345; and shackle, P/N 116.35.07.183. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dct=PR%252BSR;D=FAA-2014-0770.*

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal and the FAA's response to the comment.

Request Revision of Paragraph (f)(3)

Tom Langen of Pilatus commented that the NPRM (79 FR 60389, October 7, 2014) referred to MCAI AD HB–2014–001, dated July 25, 2014. Since issuance of the NPRM, the MCAI was revised to AD HB–2014–001R1, dated October 22, 2014. The revised MCAI clarified P/N 116.35.07.271 needed to be replaced where the other P/N 116.35.07.345 should be inspected and not automatically replaced. Tom Langen requested we revise paragraph (f)(3) of the AD to read like the revised MCAI.

We agree. We revised this AD as requested.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 60389, October 7, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 60389, October 7, 2014).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Relevant Service Information

Pilatus Aircraft Ltd. has issued Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. The service bulletin describes procedures for inspecting for stress corrosion and replacing various parts of the airplane structure made of aluminum alloy AA2024–T351. You can find this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0770.

Costs of Compliance

We estimate that this AD will affect 10 products of U.S. registry. We also estimate that it would take about 30 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $4,700 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $72,500, or $7,250 per product.

In addition, we estimate that any necessary follow-on actions would take about 14 work-hours and require parts costing $10,000, for a cost of $11,190 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0770; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2015–01–03 Pilatus Aircraft Ltd: Amendment 39–18064; Docket No. FAA–2014–0770; Directorate Identifier 2014–CE–024–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective March 2, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–7 airplanes, manufacturer serial numbers (MSN) 101 through MSN 618, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 51: Standard Practices/Structures.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as possible cracking from stress corrosion on various parts of the airplane structure made of aluminum alloy AA2024–T351. We are issuing this AD to detect and correct stress corrosion cracks that may occur on various parts of the airplane structure initially made of aluminum alloy AA2024–T351, which is susceptible to stress corrosion cracking (SCC). Such a condition, if left uncorrected, could lead to failure of critical parts on the airplane structure and weaken the structural integrity of the airplane.

(f) Actions and Compliance

Unless already done, within the next 12 months after March 2, 2015 (the effective date of this AD), perform a one-time conductivity test of items 6 through 9 and 11 through 13 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, to check the material of the parts—determine whether they are made of aluminum alloy AA2124–T851 or aluminum alloy AA2024–T351. Do not install any item unless it has been inspected following the applicable paragraph of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014.

(1) *For airplanes with any parts made of aluminum alloy AA2124–T851:* Within 12 months after March 2, 2015 (the effective date of this AD), make an entry in the airplane logbook as required by paragraph 3.D.(3) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014. The only other actions of this AD that apply to airplanes with all parts made of aluminum alloy AA2124–T851 are the actions in paragraphs (f)(3), (f)(4), and (f)(5) of this AD.

(2) *For airplanes with any parts made of aluminum alloy AA2024–T351:* Within 12 months after March 2, 2015 (the effective date of this AD), do the actions in paragraphs (f)(2)(i) through (f)(2)(iii) as applicable, including all subparagraphs:

(i) For items 7 through 9 and 11 through 13 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, within 12 months after March 2, 2015 (the effective date of this AD), do a one-time inspection for cracks. If any cracks are found as a result of the inspection, before further flight, you must contact Pilatus Aircraft Ltd. to obtain FAA-approved repair instructions approved specifically for compliance with this AD and incorporate those instructions. Use the contact information found in paragraph (h) of this AD.

(ii) For item 6 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, within 12 months after March 2, 2015 (the effective date of this AD), replace with a part made of aluminum alloy AA2124–T851.

(iii) For Items 1, 2, 4, 5, and 10 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, within 12 months after March 2, 2015 (the effective date of this AD), do the following actions in paragraphs (f)(2)(iii)(A) and (f)(2)(iii)(B), as applicable.

(A) For items 1, 2, 4, and 10 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, do a one-time inspection for cracks. If any cracks are found, before further flight, you must contact Pilatus Aircraft Ltd. to obtain FAA-approved repair instructions approved specifically for compliance with this AD and incorporate those instructions. Use the contact information found in paragraph (i)(3) of this AD.

(B) For item 5 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, replace with a part made of aluminum alloy AA2124–T851.

(3) *For all airplanes:* For item 3 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, within 12 months after March 2, 2015 (the effective date of this AD), replace elevator center control-rods with P/N 116.35.07.271 (item 3 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014), because the inspection for cracks on this type of control-rods is difficult. If elevator center control-rods P/N 116.35.07.345 (Item 3 as listed in paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014), are installed, these type of control rods will be inspected.

(4) *For all airplanes:* As of 12 months after March 2, 2015 (the effective date of this AD), do not install the parts listed in items 1 and 2, 4, and 7 through 13 of paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, that are made of aluminum alloy AA2024–T351 unless they have been inspected and found free of cracks.

(5) *For all airplanes:* As of 12 months after March 2, 2015 (the effective date of this AD), do not install the parts listed in items 3, 5, and 6 of paragraph 1.A.(2) of Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014, that are made of aluminum alloy AA2024–T351.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal

agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI Federal Office of Civil Aviation (FOCA) AD HB–2014–001, dated July 25, 2014; and AD HB–2014–001R1, dated November 5, 2014 for related information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!docketBrowser;rpp=25;po=0;dct=PR%252BSR;D=FAA-2014-0770.*

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Pilatus Aircraft Ltd. Pilatus PC–7 Service Bulletin No: 51–001, Revision No. 1, dated August 26, 2014.

(ii) Reserved.

(3) For Pilatus Aircraft Ltd. service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *Techsupport@pilatus-aircraft.com;* internet: *http://www.pilatus-aircraft.com.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on December 31, 2014.

Robert Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–00010 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0692; Directorate Identifier 2012–NM–024–AD; Amendment 39–18031; AD 2014–23–15]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) AD 2011–14–06 for all Airbus Model A318, A319, A320, and A321 series airplanes. AD 2011–14–06 required revising the maintenance program. This new AD requires revising the maintenance program to incorporate new, more restrictive limitations. This AD was prompted by the determination that more restrictive limitations are necessary. We are issuing this AD to prevent fatigue cracking, accidental damage, or corrosion in principal structural elements, and possible failure of certain life limited parts, which could result in reduced structural integrity of the airplane.

DATES: This AD becomes effective March 2, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 2, 2015.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 22, 2011 (76 FR 42024, July 18, 2011).

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of November 7, 2007 (72 FR 56262, October 3, 2007).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0692;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011). AD 2011–14–06 applied to Airbus Model A318, A319, A320, and A321 series airplanes. The SNPRM published in the **Federal Register** on May 28, 2014 (79 FR 30492). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on August 13, 2013 (78 FR 49213).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0147, dated July 16, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A318, A319, A320, and A321 series airplanes. The MCAI states:

> The airworthiness limitations for Airbus A320 family aeroplanes are currently included in Airbus A318/A319/A320/A321 Airworthiness Limitations Section (ALS) document. The airworthiness limitations applicable to the Damage Tolerant Airworthiness Limitation Items (DT ALI) are currently given in Airbus ALS Part 2, which is approved by EASA.
>
> Previously, EASA issued AD 2010–0071R1 [*http://ad.easa.europa.eu/blob/easa_ad_2010_0071_R1.pdf/AD_2010–0071R1_1*] [associated with FAA AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)], which required the implementation of the DT ALI maintenance instructions as specified in Airbus A318/A319/A320/A321 ALI Document ref. AI/SE–M4/95A.0252/96 issue 10 and Airbus A319 Corporate Jet ALI Document ref. AI/SE–M2/95A.1038/99.
>
> The new Airbus A318/A319/A320/A321 ALS Part 2 Revision 02, which includes also Airbus A319 Corporate Jet, introduces more restrictive DT ALI maintenance instructions. Failure to comply with these instructions could result in an unsafe condition.
>
> Application of new DT ALI tasks 531129–02–2 and 531129–02–3 introduces initial and

repetitive inspections of the windshield central lower node continuity fittings, replacing the one time inspection for that subject, previously required by EASA AD 2011–0231 [*http://ad.easa.europa.eu/blob/easa_ad_2011_0231.pdf*] [associated with FAA AD 2013–13–03, Amendment 39–17491 (78 FR 41280, July 10, 2013)].

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2010–0071R1 * * *, which are superseded, and requires compliance with all maintenance tasks as described in Airbus A318/A319/A320/A321 ALS part 2 at Revision 02.

The unsafe condition is fatigue cracking, accidental damage, or corrosion in principal structural elements, and possible failure of certain life limited parts, which could result in reduced structural integrity of the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the SNPRM (79 FR 30492, May 28, 2014) and the FAA's response to each comment.

Request To Extend Compliance Time

United Airlines (UAL), Delta Airlines (DAL), and Virgin America asked that we extend the compliance time for incorporation of Airbus A318/A319/A320/A321 ALS Part 2—Damage-Tolerant Airworthiness Limitation Items (DT ALI), Revision 02, dated May 28, 2013. UAL stated that it would like to manage the task incorporation on an individual basis. UAL proposed that we revise the compliance times specified in paragraph (n) of the SNPRM (79 FR 30492, May 28, 2014) as follows: ''After the effective date of this AD, incorporate each task into the program within the specific threshold/interval provided.'' DAL and Virgin America stated that, to provide time to revise the maintenance program and perform any related tasks that might exceed the compliance thresholds specified in the ALI, the grace period specified in paragraph (n) of the SNPRM should be changed from 4 to 12 months.

DAL asked for more time to update the maintenance program to incorporate Airbus A318/A319/A320/A321 ALS Part 2—Damage-Tolerant Airworthiness Limitation Items (DT ALI), Revision 02, dated May 28, 2013. DAL and Virgin America requested 9 months, as opposed to 30 days, because 9 months was the allowed compliance time for incorporating airworthiness limitation items into the maintenance program required by AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011).

We acknowledge the commenters' concerns; however, we do not agree to extend the compliance times for incorporation of the tasks into the maintenance program. We based the compliance times in this AD primarily on our assessment of the safety risk. Since some safety issues are more time-sensitive than others, we consider the overall risk to the fleet, including the severity of the failure and the likelihood of the occurrence of the failure. In this case, the primary reason for requiring incorporation of Airbus A318/A319/A320/A321 ALS Part 2—Damage-Tolerant Airworthiness Limitation Items (DT ALI), Revision 02, dated May 28, 2013, is to cover extension of the design service goal and preliminary results from widespread fatigue damage.

Therefore, we do not agree to extend the grace period or compliance times for incorporation of the tasks into the maintenance program. However, under the provisions of paragraph (p)(1) of this AD, we will consider requests for approval of extending the compliance time based on the current status of the maintenance and inspection programs relative to the ALI tasks if sufficient data are submitted to substantiate that it would provide an acceptable level of safety. We have not changed this AD in this regard.

''Contacting the Manufacturer'' Paragraph in This AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

We have become aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, the European Aviation Safety Agency (EASA), or Airbus's EASA Design Organization Approval (DOA).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DOA, the approval must include the DOA-authorized signature. The DOA signature indicates that the data and information contained in the document are EASA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DOA-authorized signature approval are not EASA-approved, unless EASA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

We also have decided not to include a generic reference to either the ''delegated agent'' or ''design approval holder (DAH) with State of Design Authority design organization approval,'' but instead we have provided the specific delegation approval granted by the State of Design Authority for the DAH.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM (79 FR

30492, May 28, 2014) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the SNPRM (79 FR 30492, May 28, 2014).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 851 airplanes of U.S. registry.

The actions required by AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011), and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the required actions is $85 per product.

We also estimate that it will take about 1 work-hour per product to comply with the new basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $72,335, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0692;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011), and adding the following new AD:

2014–23–15 Airbus: Amendment 39–18031. Docket No. FAA–2013–0692; Directorate Identifier 2012–NM–024–AD.

(a) Effective Date

This AD becomes effective March 2, 2015.

(b) Affected ADs

This AD replaces AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011).

(c) Applicability

This AD applies to all Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic Inspections.

(e) Reason

This AD was prompted by a determination that more restrictive limitations are necessary. We are issuing this AD to prevent fatigue cracking, accidental damage, or corrosion in principal structural elements, and possible failure of certain life limited parts, which could result in reduced structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Revision of Airworthiness Limitations Section (ALS) To Incorporate Safe Life Airworthiness Limitation Items (ALIs)

This paragraph restates the requirements of paragraph (g) of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011). For Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes: Within 3 months after November 7, 2007 (the effective date of AD 2007–20–05, Amendment 39–15215 (72 FR 56262, October 3, 2007)), revise the ALS of the Instructions for Continued Airworthiness to incorporate Sub-part 1–2, ''Life Limits,'' and Sub-part 1–3, ''Demonstrated Fatigue Lives,'' of Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 00, dated February 28, 2006. Accomplish the actions in Sub-part 1–2, ''Life Limits,'' and Sub-part 1–3, ''Demonstrated Fatigue Lives,'' of Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 00, dated February 28, 2006, at the times specified in Sub-part 1–2, ''Life Limits,'' and Sub-part 1–3, ''Demonstrated Fatigue Lives,'' of Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, dated February 28, 2006, except as provided by paragraph (i) of this AD. Accomplishing the actions required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Revision to ALS To Incorporate Damage Tolerant ALIs

This paragraph restates certain provisions of paragraph (h) of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011). For Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; except Model A319 airplanes on which Airbus Modifications 28238, 28162, and 28342 have been incorporated in production: Within 14 days after November

7, 2007 (the effective date of AD 2007–20–05, Amendment 39–15215 (72 FR 56262, October 3, 2007)), revise the ALS of the Instructions for Continued Airworthiness to incorporate Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 7, dated December 2005 (approved by the European Aviation Safety Agency (EASA) on February 7, 2006); Issue 08, dated March 2006 (approved by the EASA on January 4, 2007); or Issue 09, dated November 2006 (approved by the EASA on May 21, 2007). Accomplish the actions in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 7, dated December 2005; Issue 08, dated March 2006; or Issue 09, dated November 2006; at the times specified in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 7, dated December 2005; Issue 08, dated March 2006; or Issue 09, dated November 2006; as applicable; except as provided by paragraph (i) of this AD. Accomplishing the actions required by paragraph (j) or (n) of this AD, as applicable, terminates the requirements of this paragraph.

(i) Retained Grace Period for New or More Restrictive Actions

This paragraph restates certain provisions of paragraph (i) of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011). For Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes: For any new or more restrictive life-limit introduced with Sub-part 1–2, ''Life Limits,'' and Sub-part 1–3, ''Demonstrated Fatigue Lives,'' of Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 00, dated February 28, 2006, replace the part at the time specified in Sub-part 1–2, ''Life Limits,'' and Sub-part 1–3, ''Demonstrated Fatigue Lives,'' of Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 00, dated February 28, 2006, or within 6 months after November 7, 2007 (the effective date of AD 2007–20–05, Amendment 39–15215 (72 FR 56262, October 3, 2007)), whichever is later. Accomplishing the actions required by paragraph (n) of this AD terminates the requirements of this paragraph.

(j) Retained Revision of ALS To Incorporate Damage-Tolerant ALIs With Revised Compliance Times

This paragraph restates the requirements of paragraph (j) of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011), with revised compliance times. Within 9 months after August 22, 2011 (the effective date of AD 2011–14–06): Revise the maintenance program by incorporating all maintenance requirements and associated airworthiness limitations specified in the Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 10, dated October 2009; or Issue 11, dated September 2010. Comply with all applicable maintenance requirements and associated airworthiness limitations included in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 10, dated October 2009; or Issue 11, dated September 2010; except as provided by paragraph (k) of this AD. Accomplishing the actions required by this paragraph terminates the requirements of paragraph (h) of this AD. Accomplishing the actions required by paragraph (n) of this AD terminates the requirements of this paragraph.

(k) Retained Special Compliance Times for Certain Tasks

This paragraph restates the requirements of paragraph (k) of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011), with changes to table 1 to paragraph (k) of this AD. For new and more restrictive tasks introduced with Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 10, dated October 2009; or Issue 11, dated September 2010; as specified in table 1 to paragraph (k) of this AD: The initial compliance time for doing the tasks is specified in table 1 to paragraph (k) of this AD. Accomplishing the actions required by paragraph (n) of this AD terminates the requirements of this paragraph.

TABLE 1 TO PARAGRAPH (K) OF THIS AD—COMPLIANCE TIMES FOR TASKS

Task	Applicability (as specified in the applicability column of the task)	Compliance time, whichever occurs later	
545102–01–6	Group 19–1A CFM, Group 19–1B CFM, and Model A320-200 airplanes with CFM Industrial (CFM)/International Aero Engine (IAE) engines.	The threshold as defined in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 10, dated October 2009; or Issue 11, dated September 2010.	Within 2,000 flight cycles or 5,500 flight hours, after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)), whichever occurs first.
545102–01–7	Model A320–100 series airplanes	The threshold as defined in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 10, dated October 2009; or Issue 11, dated September 2010.	Within 2,000 flight cycles or 2,000 flight hours, after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)), whichever occurs first.
572050–01–1 or alternative task 572050-02–1.	Group 19-1A and Group 19–1B airplanes.	At the time of the next due accomplishment of any one of the tasks 572004, 572020, or 572053 as currently described in the Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 7, dated December 2005; Issue 08, dated March 2006; or Issue 09, dated November 2006.	Within 6 months after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)).
572050–01–4 or alternative task 572050-02–4.	Model A320–200 series airplanes	At the time of the next due accomplishment of any one of the tasks 572004, 572020, or 572053 as currently described in the Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 7, dated December 2005; Issue 08, dated March 2006; or Issue 09, dated November 2006.	Within 6 months after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)).

TABLE 1 TO PARAGRAPH (K) OF THIS AD—COMPLIANCE TIMES FOR TASKS—Continued

Task			
572050–01–5 or alternative task 572050-02–5.	Group 21-1A airplanes	At the time of the next due accomplishment of any one of the tasks 572004, 572020, or 572053 as currently described in the Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 7, dated December 2005; Issue 08, dated March 2006; or Issue 09, dated November 2006.	Within 6 months after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)).
572050–01–7 or alternative task 572050-02–7.	Model A320–100 series airplanes	At the time of the next due accomplishment of any one of the tasks 572004, 572020, or 572053 as currently described in the Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 7, dated December 2005; Issue 08, dated March 2006; or Issue 09, dated November 2006.	Within 6 months after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)).
534132–01–1	Model A320 PRE 30748 airplanes	The threshold/interval as defined in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 10, dated October 2009; or Issue 11, dated September 2010.	Within 100 days after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)), without exceeding the previous threshold/interval as defined in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 7, dated December 2005; Issue 08, dated March 2006; or Issue 09, dated November 2006.
531118–01–1	Model A318 (except (A318–121 and -122), Group 19–1A, Group 19–1B, and Model A320 and A321 series airplanes.	The threshold/interval as defined in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 10, dated October 2009; or Issue 11, dated September 2010.	Within 100 days after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)), without exceeding the previous threshold/interval as defined in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 7, dated December 2005; Issue 08, dated March 2006; or Issue 09, dated November 2006.
531118–01–1	Model A318–121 and -122 airplanes	The threshold/interval as defined in Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE-M4/95A.0252/96, Issue 10, dated October 2009; or Issue 11, dated September 2010.	Within 100 days after August 22, 2011 (the effective date of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)).

Note 1 to table 1 to paragraph (k) of this AD: ALI Task 572050 refers to the outer wing dry bay and is comprised of extracts from three ALI Tasks 572004, 572020, and 572053. The threshold of ALI Task 572050 for the whole dry bay area is that of the lowest threshold of the source ALI tasks, *i.e.,* that of ALI Task 572053.

(l) Retained Limitation: No Alternative Life Limits, Inspections, or Inspection Intervals After Accomplishment of the Actions Specified in Paragraphs (g) and (h) of This AD

This paragraph restates the requirements of paragraph (l) of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011). After the actions specified in paragraphs (g) and (h) of this AD have been accomplished, no alternative life limits, inspections, or inspection intervals may be used, except as provided by paragraphs (i) and (m) of this AD, and except as required by paragraphs (j) and (n) of this AD.

(m) Retained Limitation: No Alternative Life Limits, Inspections, or Inspection Intervals After Accomplishment of the Actions Specified in Paragraph (j) of This AD

This paragraph restates the requirements of paragraph (m) of AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011). After the actions specified in paragraph (j) of this AD have been accomplished, no alternative life limits, inspections, or inspection intervals may be used, except as required by paragraph (n) of this AD.

(n) New Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the ALIs specified in paragraphs (n)(1), (n)(2), and (n)(3) of this AD. The initial compliance time for accomplishing the actions is at the applicable time specified in the ALIs specified in paragraphs (n)(1), (n)(2), and (n)(3) of this AD; or within 4 months after the effective date of this AD; whichever occurs

later. Accomplishing these actions terminates the requirements of paragraphs (g), (h), (i), (j), and (k) of this AD.

(1) Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 02, dated May 13, 2011.

(2) Airbus A318/A319/A320/A321 ALS Part 2—Damage-Tolerant Airworthiness Limitation Items (DT ALI), Revision 02, dated May 28, 2013.

(3) Airbus A318/A319/A320/A321 ALS Part 4—Ageing Systems Maintenance, dated January 8, 2008.

(o) New Limitation: No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)

After accomplishing the revision required by paragraph (n) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (p)(1) of this AD.

(p) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011), are approved as AMOCs for the corresponding actions specified in this AD.

(2) Contacting the Manufacturer: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(q) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directives 2012–0008, dated January 16, 2012; and 2013–0147, dated July 16, 2013; for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!document Detail;D=FAA-2013-0692-0002.*

(r) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 02, dated May 13, 2011. The revision level of this document is identified on only the title page and in the Record of Revisions. The revision date is not identified on the title page of this document.

(ii) Airbus A318/A319/A320/A321 ALS Part 2—Damage-Tolerant Airworthiness Limitation Items (DT ALI), Revision 02, dated May 28, 2013. The revision date of this document is not identified on the title page of this document.

(iii) Airbus A318/A319/A320/A321 ALS Part 4—Ageing Systems Maintenance, dated January 8, 2008. The revision date of this document is not identified on the title page of this document.

(3) The following service information was approved for IBR on August 22, 2011 (76 FR 42024, July 18, 2011).

(i) Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 10, dated October 2009. The revision level of this document is identified on only the title page and in the Record of Revisions.

(ii) Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 11, dated September 2010. The revision level of this document is identified on only the title page and in the Record of Revisions.

(4) The following service information was approved for IBR on November 7, 2007 (72 FR 56262, October 3, 2007).

(i) Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 00, dated February 28, 2006.

(ii) Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 7, dated December 2005 (approved by the European Aviation Safety Agency (EASA) on February 7, 2006).

Note 2 to paragraph (r)(4)(ii) of this AD: This document contains the following errors: The Summary of Changes is comprised of 11 pages, which are all identified as Page 2—LEP of Section LEP instead of Page 1—SOC [through] Page 11—SOC of Section SOC; the List of Effective Pages only refers to Page 1—SOC for the Summary of Changes. The List of Effective Pages is comprised of two pages, and both of those pages are identified as Page 2—LEP. The first page of Section 2 is identified as Page 6 of Section 1 and is not referred to in the List of Effective Pages.

(iii) Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 08, dated March 2006 (approved by the EASA on January 4, 2007).

(iv) Airbus A318/A319/A320/A321 Airworthiness Limitation Items, Document AI/SE–M4/95A.0252/96, Issue 09, dated November 2006 (approved by the EASA on May 21, 2007).

(5) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(6) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on December 23, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–01257 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30996; Amdt. No. 3624]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective January 26, 2015. The compliance date for each

SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 26, 2015.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001;
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFRs, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, airports, incorporation by reference, Navigation (air).

Issued in Washington, DC, on December 19, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
8–Jan–15	LA	Bogalusa	George R Carr Memorial Air Fld.	4/1337	11/21/14	This NOTAM, published in TL 15–02, is hereby rescinded in its entirety.
8–Jan–15	MA	Boston	General Edward Lawrence Logan Intl.	4/6917	11/21/14	This NOTAM, published in TL 15–02, is hereby rescinded in its entirety.
5–Feb–15	CO	Denver	Rocky Mountain Metropolitan.	4/0487	12/10/14	ILS OR LOC RWY 30R, Amdt 15
5–Feb–15	NY	Massena	Massena Intl-Richards Field.	4/1407	12/10/14	ILS OR LOC RWY 5, Amdt 3
5–Feb–15	NY	Massena	Massena Intl-Richards Field.	4/1408	12/10/14	RNAV (GPS) RWY 9, Amdt 1B
5–Feb–15	NY	Massena	Massena Intl-Richards Field.	4/1409	12/10/14	RNAV (GPS) RWY 23, Amdt 1A
5–Feb–15	NY	Massena	Massena Intl-Richards Field.	4/1410	12/10/14	RNAV (GPS) RWY 27, Amdt 1A
5–Feb–15	WY	Casper	Casper/Natrona County Intl.	4/1695	12/15/14	RNAV (GPS) RWY 26, Amdt 1
5–Feb–15	WY	Casper	Casper/Natrona County Intl.	4/1696	12/15/14	VOR/DME RWY 3, Amdt 6
5–Feb–15	MI	Hastings	Hastings	4/1743	12/10/14	RNAV (GPS) RWY 12, Amdt 1
5–Feb–15	MI	Hastings	Hastings	4/1745	12/10/14	RNAV (GPS) RWY 30, Amdt 1
5–Feb–15	MI	Hastings	Hastings	4/1751	12/10/14	VOR RWY 12, Orig-E
5–Feb–15	NY	Massena	Massena Intl-Richards Field.	4/4310	12/10/14	RNAV (GPS) RWY 5, Amdt 2
5–Feb–15	KS	Wichita	Wichita Dwight D. Eisenhower National.	4/5762	12/10/14	Takeoff Minimums and (Obstacle) DP, Orig-A
5–Feb–15	KS	Wichita	Wichita Dwight D. Eisenhower National.	4/5763	12/10/14	VOR RWY 14, Amdt 1E
5–Feb–15	FL	Fort Myers	Page Field	4/5921	12/15/14	ILS OR LOC RWY 5, Amdt 7A
5–Feb–15	FL	Fort Myers	Page Field	4/5922	12/15/14	RNAV (GPS) RWY 31, Orig-B
5–Feb–15	FL	Fort Myers	Page Field	4/5923	12/15/14	RNAV (GPS) RWY 23, Orig-A
5–Feb–15	FL	Fort Myers	Page Field	4/5924	12/15/14	RNAV (GPS) RWY 13, Amdt 1C
5–Feb–15	FL	Fort Myers	Page Field	4/5927	12/15/14	RNAV (GPS) RWY 5, Orig-A
5–Feb–15	OR	Astoria	Astoria Rgnl	4/6159	12/10/14	ILS RWY 26, Amdt 3
5–Feb–15	TX	Temple	Draughon-Miller Central Texas Rgnl.	4/6236	12/15/14	ILS OR LOC RWY 15, Amdt 12
5–Feb–15	WI	Racine	John H Batten	4/6253	12/15/14	VOR RWY 4, Amdt 1B
5–Feb–15	VA	Leesburg	Leesburg Executive	4/6770	12/15/14	RNAV (GPS) RWY 17, Amdt 3A
5–Feb–15	NM	Albuquerque	Albuquerque Intl Sunport.	4/8473	12/15/14	RNAV (RNP) Y RWY 21, Orig
5–Feb–15	NM	Albuquerque	Albuquerque Intl Sunport.	4/8474	12/15/14	RNAV (RNP) Z RWY 26, Amdt 1A
5–Feb–15	NM	Albuquerque	Albuquerque Intl Sunport.	4/8475	12/15/14	RNAV (GPS) Y RWY 8, Orig-A
5–Feb–15	NM	Albuquerque	Albuquerque Intl Sunport.	4/8476	12/15/14	RNAV (RNP) Z RWY 21, Amdt 1
5–Feb–15	NM	Albuquerque	Albuquerque Intl Sunport.	4/8477	12/15/14	RNAV (RNP) Y RWY 26, Amdt 1
5–Feb–15	MN	New Ulm	New Ulm Muni	4/8487	12/15/14	RNAV (GPS) RWY 15, Orig
5–Feb–15	MN	New Ulm	New Ulm Muni	4/8488	12/15/14	NDB RWY 15, Amdt 2
5–Feb–15	MN	New Ulm	New Ulm Muni	4/8489	12/15/14	RNAV (GPS) RWY 33, Orig
5–Feb–15	MN	New Ulm	New Ulm Muni	4/8490	12/15/14	NDB RWY 33, Amdt 2
5–Feb–15	TX	Sinton	Alfred C 'Bubba' Thomas.	4/8742	12/15/14	GPS RWY 14, Orig
5–Feb–15	NC	Wilmington	Wilmington Intl	4/8949	12/15/14	ILS Y OR LOC RWY 35, Amdt 22A

[FR Doc. 2015–01003 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30995; Amdt. No. 3623]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective January 26, 2015. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 26, 2015.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

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

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on December 19, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 5 February 2015

Montauk, NY, Montauk, VOR RWY 6, Amdt 4
Cleveland, OH, Cuyahoga County, LOC/DME BC RWY 6, Amdt 13, CANCELED
Waverly, OH, Pike County, RNAV (GPS) RWY 7, Amdt 1
Waverly, OH, Pike County, RNAV (GPS) RWY 25, Amdt 1
Waverly, OH, Pike County, Takeoff Minimums and Obstacle DP, Amdt 1

Effective 5 March 2015

Napaskiak, AK, Napaskiak, Takeoff Minimums and Obstacle DP, Orig
Mammoth Lakes, CA, Mammoth Yosemite, NIKOL ONE, GRAPHIC DP
Mammoth Lakes, CA, Mammoth Yosemite, Takeoff Minimums and Obstacle DP, Amdt 2
Oakland, CA, Metropolitan Oakland Intl, ILS OR LOC RWY 12, ILS RWY 12 (SA CAT I), Amdt 8
Effingham, IL, Effingham County Memorial, LOC RWY 29, Amdt 1E, CANCELED
Alexandria, IN, Alexandria, Takeoff Minimums and Obstacle DP, Orig, CANCELED
Alexandria, IN, Alexandria, VOR OR GPS RWY 27, Amdt 8A, CANCELED
Murray, KY, Kyle-Oakley Field, RNAV (GPS) RWY 5, Amdt 1
Murray, KY, Kyle-Oakley Field, RNAV (GPS) RWY 23, Amdt 1
De Quincy, LA, De Quincy Industrial Airpark, NDB RWY 15, Amdt 2, CANCELED
De Quincy, LA, De Quincy Industrial Airpark, RNAV (GPS) RWY 16, Amdt 2
De Quincy, LA, De Quincy Industrial Airpark, RNAV (GPS) RWY 34, Amdt 2
De Quincy, LA, De Quincy Industrial Airpark, Takeoff Minimums and Obstacle DP, Amdt 1
De Quincy, LA, De Quincy Industrial Airpark, VOR/DME RWY 34, Amdt 3
Muskegon, MI, Muskegon County, VOR/DME RWY 6, Amdt 11A, CANCELED
Duluth, MN, Duluth Intl, RADAR–1, Amdt 20A, CANCELED
Cameron, MO, Cameron Memorial, NDB RWY 35, Amdt 3, CANCELED
Loup City, NE., Loup City Muni, RNAV (GPS) RWY 16, Orig
Loup City, NE., Loup City Muni, RNAV (GPS) RWY 34, Orig
Van Wert, OH, Van Wert County, NDB RWY 9, Amdt 3A, CANCELED
Georgetown, TX, Georgetown Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Greenville, TX, Majors, LOC BC RWY 35, Amdt 1B, CANCELED
Houston, TX, William P. Hobby, Takeoff Minimums and Obstacle DP, Amdt 6A
Lago Vista, TX, Lago Vista TX—Rusty Allen, Takeoff Minimums and Obstacle DP, Amdt 1
Lakeway, TX, Lakeway Airpark, Takeoff Minimums and Obstacle DP, Amdt 3
Lamesa, TX, Lamesa Muni, NDB RWY 16, Amdt 3, CANCELED
Lamesa, TX, Lamesa Muni, NDB RWY 34, Amdt 4, CANCELED
Levelland, TX, Levelland Muni, NDB RWY 17, Amdt 3, CANCELED
Levelland, TX, Levelland Muni, NDB RWY 35, Amdt 2, CANCELED
Taylor, TX, Taylor Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Blacksburg, VA, Virginia Tech/Montgomery Executive, RNAV (GPS) RWY 12, Amdt 2

[FR Doc. 2015–01028 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 38

[Docket No. RM05–5–024; Order No. 676–H]

Standards for Business Practices and Communication Protocols for Public Utilities

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of extension of time.

SUMMARY: Order No. 676–H, published on September 14, 2014, requires public utilities to comply with the incorporated Version 003 business practice standards by February 2, 2015 (former), with the exception of those standards related to the Network Integration Transmission Service (NITS) Open Access Same-Time Information System (OASIS) template, for which compliance is required by April 25, 2016 (latter). This document extends the afore-mentioned deadline to comply with requirements not related to the NITS OASIS template from February 2, 2015 to and including May 15, 2015.

DATES: *Effective date:* This rule is effective January 26, 2015.

Compliance date: Compliance with the Version 003 business practice standards not related to the NITS OASIS template, published in the rule of September 14, 2014 (79 FR 56939), is extended to and including May 15, 2015, for all entities subject to the requirement.

FOR FURTHER INFORMATION CONTACT:

Tony Dobbins (Technical Issues), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6630

Gary D. Cohen (Legal Issues), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8321

SUPPLEMENTARY INFORMATION: In Order No. 676–H, the Federal Energy Regulatory Commission (Commission) amended its regulations to incorporate by reference, with certain enumerated exceptions, the latest version (Version 003) of the Standards for Business Practices and Communication Protocols for Public Utilities adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) as mandatory enforceable requirements.[1] Order No. 676–H requires public utilities to comply with the incorporated Version 003 business practice standards by February 2, 2015, with the exception of those standards related to the NITS OASIS template, for which compliance is required by April 25, 2016. Several entities have requested a time extension for compliance with the February 2, 2015 implementation date.

Upon consideration of these requests for extension of time, the Commission will extend the requirement for compliance with the Version 003 business practice standards not related to the NITS OASIS template to and including May 15, 2015, for all entities subject to these requirements. All other compliance obligations set forth in Order No. 676–H remain in force. We will consider further requests for extension for particular standards in future orders.[2]

[1] *Standards for Business Practices and Communication Protocols for Public Utilities,* 148 FERC ¶ 61,205 (2014).

[2] For example, in Docket Nos. RM05–5–024 and ER15–550–000, the New York Independent System Operator, Inc., has requested a time extension for compliance with the NAESB standards involving Public Key Infrastructure (WEQ–012) to allow a 24 month compliance schedule.

Dated: January 15, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01141 Filed 1–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0657]

RIN 1625–AA08

Special Local Regulation; Clearwater Super Boat National Championship; Gulf of Mexico, Clearwater, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of the Gulf of Mexico in the vicinity of Clearwater Beach, Florida during the Clearwater Super Boat National Championship. The race is scheduled to take place annually on the last Saturday and Sunday of September from approximately 10 a.m. to 5 p.m. The special local regulation is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on the navigable waters of the United States during the event. The special local regulation will restrict vessel traffic in the waters of the Gulf of Mexico in the vicinity of Clearwater, Florida. It will establish the following three areas: A race area, where all persons and vessels, except those persons and vessels participating in the high speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; a spectator area, where all vessels must be anchored or operate at No Wake Speed; and an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions.

DATES: This rule is effective March 1, 2015. This rule will be enforced annually on the last weekend in September from 10 a.m. to 5 p.m. EDT.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0657. 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 Marine Science Technician First Class Hector I. Fuentes, Sector Saint Petersburg Waterways Management Branch, U.S. Coast Guard; telephone (813) 228–2191, email *Hector.I.Fuentes@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, 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 establishing this Special Local Regulation on the waters of the Gulf of Mexico in the vicinity of Clearwater Beach, Florida during the Clearwater Super Boat National Championship. On September 10, 2014, the Coast Guard published a notice proposing this final rule. One comment was received in favor of this regulation.

The race is scheduled to take place annually from approximately 10 a.m. to 5 p.m. during the last Saturday and Sunday of September. This rule is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on the navigable waters of the United States during the event.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233.

The purpose of the rule is to provide for the safety of life on navigable waters of the United States during the Clearwater Super Boat National Championship.

C. Comments, Changes and the Final Rule

The Coast Guard received one comment related to this event during the comment period and there was no request for a public meeting made during the comment period. The one comment received was in support of the regulation.

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.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that 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.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would 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 is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. A environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.721 to read as follows:

§ 100.721 Special Local Regulations; Clearwater Super Boat National Championship, Gulf of Mexico; Clearwater Beach, FL.

(a) *Regulated Areas.* The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) *Race Area.* All waters of the Gulf of Mexico contained within the following points: 27°58.67′ N, 82°50.32′ W, thence to position 27°58.60′ N, 82°49.98′ W, thence to position 28°00.88′ N, 82°50.35′ W, thence to position 28°00.80′ N, 82°49.90′ W, thence back to the original position, 28°58.67′ N, 82°50.32′ W.

(2) *Spectator Area.* All waters of Gulf of Mexico seaward no less than 150 yards from the race area and as agreed upon by the Coast Guard and race officials.

(3) *Enforcement Area.* All waters of the Gulf of Mexico encompassed within the following points: 28°58.67′ N, 82°50.62′ W, thence to position 28°00.95′ N, 82°49.75′ W, thence to position 27°58.53′ N, 82°50.53′ W, thence to position 27°58.38′ N, 82°49.88′ W, thence back to position 28°58.67′ N, 82°50.62′ W.

(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 St. Petersburg in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the Race Area unless an authorized race participant.

(2) Designated representatives may control vessel traffic throughout the enforcement area as determined by the prevailing conditions.

(3) All vessels are to be anchored and/or operate at a No Wake Speed in the spectator area. On-scene designated representatives will direct spectator vessels to the spectator area.

(4) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the Captain of the Port St. Petersburg by telephone at (727) 824–7506, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

(d) *Enforcement Date.* This section will be enforced annually from approximately 10 a.m. to 5 p.m. EDT daily the last Saturday and Sunday of September.

Dated: January 5, 2015.

G.D. Case,

Captain, U.S. Coast Guard, Captain of the Port Saint Petersburg.

[FR Doc. 2015–00914 Filed 1–23–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0033; FRL–9921–79-Region 6]

Approval and Promulgation of Implementation Plans; State of New Mexico; Revisions to the State Implementation Plan; General Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking a direct final action to approve revisions to the New Mexico State Implementation Plan (SIP) related to the General Definitions section of the New Mexico SIP that were submitted by the State of New Mexico on June 11, 2009. EPA has evaluated the SIP revisions for New Mexico and determined these revisions are consistent with the requirements of the Clean Air Act (Act or CAA). EPA is approving this action under section 110 of the Act.

DATES: This direct final rule is effective on March 27, 2015 without further notice, unless EPA receives significant adverse comment by February 25, 2015. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2011–0033, by one of the following methods:

(1) *www.regulations.gov:* Follow the on-line instructions.

(2) *Email:* Ms. Tracie Donaldson at *donaldson.tracie@epa.gov.*

(3) *Mail or Delivery:* Ms. Tracie Donaldson, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2011–0033. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that 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 *http://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 along with any disk or CD–ROM submitted. 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 and any form of encryption and should 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: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Ms. Tracie Donaldson, (214) 665–6633, *donaldson.tracie@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Donaldson or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Table of Contents

I. Background
A. CAA and SIPs
B. SIP Revision Submitted on June 11, 2009
II. EPA's Evaluation
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I. Background

A. CAA and SIPs

Section 110 of the CAA requires states to develop and submit to EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS). The NAAQS currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. EPA-approved SIP provisions and control strategies are federally enforceable. States revise the SIP as needed and submit revisions to EPA for approval.

B. SIP Revision Submitted on June 11, 2009

On August 31, 2009, the New Mexico Environmental Improvement Board (EIB) adopted amendments to the New Mexico Administrative Code (NMAC) at Title 20, Chapter 2, Parts 2, 74 and 79. Governor Richardson submitted these amendments as a revision to the New Mexico SIP in a letter dated June 11, 2009.

As part of this action, EPA is addressing only the revisions to the NMAC at Title 20, Chapter 2, Part 2, Definitions that were contained in the revisions adopted on August 31, 2009. This includes the addition of two definitions: ''$PM_{2.5}$'' and ''$PM_{2.5}$ emissions.'' EPA is not addressing the revisions to Parts 74 and 79, which were previously addressed in a separate action. See 75 FR 72688.

EPA is also taking this opportunity to recodify the General Definitions of the NMAC as part of this action. The New Mexico EIB adopted the recodification of Title 20, Chapter 2, Part 2 in 2002.

II. EPA's Evaluation

As detailed in the Technical Support Document (TSD) accompanying this action, the definitions of ''$PM_{2.5}$'' and ''$PM_{2.5}$ emissions'' that were submitted as additions to the New Mexico SIP have been reviewed and were found to be consistent with EPA's federal regulations. The 2002 recodification of Title 20, Chapter 2, Part 2 is administrative in nature, does not contain substantive changes, and is approvable.

III. Final Action

For the reasons stated above and in the TSD, EPA is taking direct final action to approve revisions to the New Mexico SIP pertaining to the General Definitions section at NMAC, Title 20, Chapter 2, Part 2, Definitions, as adopted on August 31, 2009, and submitted as SIP revisions on June 11, 2009. EPA is also approving the recodification of Title 20, Chapter 2, Part 2 adopted in 2002 as part of this action.

We are approving the revisions to the New Mexico SIP under section 110 of the Act. We are publishing this rule without prior proposal because we view

this as a noncontroversial amendment and anticipate no significant adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if significant adverse comments are received. This rule will be effective on March 27, 2015 without further notice unless we receive significant adverse comment by February 25, 2015. If we receive significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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 Clean Air Act. Accordingly, this 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 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).

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 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).

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. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 6, 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 GG—New Mexico

■ 2. In § 52.1620(c), the table titled ''EPA Approved New Mexico Regulations'' is amended by revising the entry for Part 2 under ''New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality''. The revision reads as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED NEW MEXICO REGULATIONS

State citation	Title/ subject	State approval/effective date	EPA approval date	Comments
New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality				

EPA APPROVED NEW MEXICO REGULATIONS—Continued

State citation	Title/ subject	State approval/effective date	EPA approval date	Comments
*		*	*	* * * *
Part 2	Definitions ...	8/31/2009	1/26/2015 ..... [Insert FR page number where document begins].	The following definitions are state specific and are not being approved into the SIP: G. "Carbon dioxide" M. "Greenhouse gas" O. "Hydrofluorocarbons" S. "Methane" V. "Nitrous oxide" AA. "Perfluorocarbons" AN. "Sulfur hexafluoride"
*		*	*	* * * *

[FR Doc. 2015–00774 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2014–0621; FRL–9921–52–OAR]

RIN 2060–AS38

Protection of Stratospheric Ozone: Extension of the Laboratory and Analytical Use Exemption for Essential Class I Ozone-Depleting Substances

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule extends the laboratory and analytical use exemption for the production and import of class I ozone-depleting substances through December 31, 2021. The Environmental Protection Agency (EPA) is taking this action under the Clean Air Act, consistent with a recent decision of the Parties to the *Montreal Protocol on Substances that Deplete the Ozone Layer.* The exemption allows the production and import of controlled substances in the United States for laboratory and analytical uses that have not been already identified by EPA as nonessential.

DATES: This rule is effective January 26, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2014–0621. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is 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 and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Jeremy Arling by regular mail: U.S. Environmental Protection Agency, Stratospheric Protection Division (6205T), 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone: (202) 343–9055; or by email: *arling.jeremy@epa.gov.* You may also visit the EPA's Ozone Protection Web site at *www.epa.gov/ozone/strathome.html* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and other related topics.

SUPPLEMENTARY INFORMATION: Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under section 307(d)(1) of the Clean Air Act, which states: "The provisions of section 553 through 557 . . . of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies." Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in making this rule effective on January 26, 2015. APA section 553(d) allows an effective date less than 30 days after publication for a rule that "that grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1). Since today's action grants an exemption for limited laboratory and analytical uses from the general prohibition on production or import of Class I ozone depleting substances after their phaseout dates, EPA is making this action effective immediately upon publication.

I. General Information

A. Does this action apply to me?

Entities potentially regulated by this action include: (1) Pharmaceutical preparations manufacturing businesses (NAICS code 325412); (2) medical and diagnostic laboratories (NAICS code 621511); (3) research and development in the physical, engineering, and life sciences (NAICS code 54171); and (4) environmental consulting services (NAICS code 541620). This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility, company, business, or organization could be regulated by this action, you should carefully examine the regulations promulgated at 40 CFR part 82, subpart A. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section.

II. Extension of the Laboratory and Analytical Use Exemption

The *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol, or Protocol) is the international agreement to reduce and eventually eliminate the global

production and consumption [1] of ozone-depleting substances (ODS). This goal is accomplished through adherence by each country that is a Party to the Protocol to phaseout schedules for specific controlled substances. The Protocol established January 1, 1996, as the date by which the production and import of most substances classified as ''class I controlled substances'' under the Clean Air Act (CAA or Act)—including chlorofluorocarbons (CFCs), carbon tetrachloride, and methyl chloroform [2]—were to be phased out in developed countries, including the United States. The Clean Air Act grants EPA the authority to implement the Protocol's phaseout schedules in the United States. Section 604 of the Clean Air Act requires EPA to issue regulations phasing out production and consumption of class I ODS according to a prescribed schedule. EPA's phaseout regulations for ODS are codified at 40 CFR part 82, subpart A.

The Montreal Protocol provides exemptions that allow for the continued import and/or production of ODS for specific uses. For most class I ODS, the Parties may collectively grant exemptions to the ban on production and import of ODS for uses that they determine to be ''essential.'' For example, with respect to CFCs, Article 2A(4) provides that the phaseout will apply ''save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.'' Similar language appears in the control provisions for halons (Art. 2B), carbon tetrachloride (Art. 2D), methyl chloroform (Art. 2E), hydrobromofluorocarbons (Art. 2G), and chlorobromomethane (Art. 2I). As defined by Decision IV/25 of the Parties, ''use of a controlled substance should qualify as 'essential' only if: (i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health.''

Decision X/19 under the Montreal Protocol (taken in 1998) allowed a general exemption for essential laboratory and analytical uses through December 31, 2005. EPA codified this exemption at 40 CFR part 82, subpart A. While the Clean Air Act does not specifically provide for this exemption, EPA determined that an exemption for essential laboratory and analytical uses was allowable under the Act as a *de minimis* exemption. EPA addressed the *de minimis* exemption in a regulation issued March 13, 2001 (66 FR 14760).

Decision X/19 also requested the Montreal Protocol's Technology and Economic Assessment Panel (TEAP), a group of technical experts from various Parties, to report annually to the Parties to the Montreal Protocol on laboratory and analytical procedures that could be performed without the use of controlled substances. It further stated that at future Meetings of the Parties (MOPs), the Parties would decide whether such procedures should no longer be eligible for exemptions. Based on the TEAP's recommendation, the Parties to the Montreal Protocol decided in 1999 (Decision XI/15) that the general exemption no longer applied to the following uses: testing of oil and grease and total petroleum hydrocarbons in water; testing of tar in road-paving materials; and forensic finger-printing. EPA incorporated these exclusions at Appendix G to subpart A of 40 CFR part 82 on February 11, 2002 (67 FR 6352).

At the 18th MOP, the Parties acknowledged the need for methyl bromide for laboratory and analytical procedures, and added methyl bromide to the ODS under the essential laboratory and analytical use exemption. Decision XVIII/15 outlined specific uses and exclusions for methyl bromide under the exemption. EPA incorporated specific uses of methyl bromide in the essential laboratory and analytical use exemption at Appendix G to subpart A of 40 CFR part 82 on December 27, 2007 (72 FR 73264).

In November 2009, at the 21st MOP, the Parties in Decision XXI/6 extended the global laboratory and analytical use exemption through December 31, 2014. Based on this decision, EPA amended the regulation at 40 CFR 82.8(b) to extend the essential laboratory and analytical use exemption through December 31, 2014 (76 FR 77909, December 15, 2011). Decision XXI/6 also notes laboratory and analytical uses of ODS for which the TEAP and its Chemicals Technical Options Committee (CTOC), determined that alternative procedures exist. However, the Parties did not exclude any of those procedures from the exemption for laboratory and analytical uses.

In November 2014, the Parties in Decision XXVI/5 extended the global laboratory and analytical use exemption through December 31, 2021. This final rule extends the laboratory and analytical use exemption found in 40 CFR 82.8(b) to match the recent international decision.

A detailed discussion of the laboratory and analytical uses of ODS can be found in the regulation issued by EPA on March 13, 2001 (66 FR 14760). That rule also discusses how the controls in place for laboratory and analytical uses provide adequate assurance that very little, if any, environmental damage will result from the handling and disposal of the small amounts of class I ODS used in such applications, due to the Appendix G requirements for small quantity and high purity. For example, class I ODS must be sold in cylinders three liters or smaller or in glass ampoules 10 milliliters or smaller. Since issuing the original exemption, EPA has not received information that would suggest a significant environmental effect from this exemption.

U.S. production and consumption of ODS under the laboratory and analytical use exemption is on a general decline, indicating that many users have been able to transition from ozone-depleting substances. However, certain laboratory procedures continue to require the use of class I substances in the United States. Because non-ODS replacements for the class I substances have not been identified for all uses, EPA is extending this exemption through December 31, 2021.

EPA received one substantive comment in response to the proposed rule, which was supportive of extending the exemption through December 31, 2021. The commenter, a manufacturer of ozone-depleting substances used as solvents under the exemption, agreed that non-ODS replacements for class I substances have not been identified, and stated that the low volume of usage of these chemicals and their exclusive use in professionally managed analytical laboratories means there is very low risk that environmental damage will occur.

EPA believes an extension of seven years is warranted, as it is unlikely that non-ODS replacements will be in place for all laboratory and analytical uses prior to that time. Decision XXVI/5 encourages parties to continue to investigate the possibility of replacing ozone-depleting substances in laboratory and analytical uses. EPA did not receive comments from standards organizations that continue to use ODS in their standards or from laboratories that have transitioned to ozone-safe alternatives. EPA intends to continue to work to investigate barriers to transitioning from ozone-depleting

[1] ''Consumption'' is defined as the amount of a substance produced in the United States, plus the amount imported into the United States, minus the amount exported from the United States to other Parties to the Montreal Protocol (*see* section 601(6) of the Clean Air Act).

[2] Class I controlled substances are listed at 40 CFR part 82, subpart A, Appendix A.

substances to alternatives for this limited use.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0170. This action extends but does not modify the existing exemption from the phaseout of class I ODS.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action provides an otherwise unavailable benefit to those companies that obtain ozone-depleting substances under the essential laboratory and analytical use exemption. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. This action merely extends the essential laboratory and analytical use exemption from the 1996 and 2005 phaseouts of class I ODS production and consumption until December 31, 2021.

E. Executive Order 13132: Federalism

This 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.

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

This action does not have tribal implications as specified in Executive Order 13175. This rule does not significantly or uniquely affect the communities of Indian tribal governments, nor does it impose any enforceable duties on communities of Indian tribal governments. This action extends the essential laboratory and analytical use exemption from the 1996 and 2005 phaseouts of class I ODS production and consumption until December 31, 2021. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. A discussion of this action's health and risk effects are contained in the direct final rule establishing the *De Minimis* Exemption for Laboratory Essential Uses (66 FR 14760; March 13, 2001). The controls in place for laboratory and analytical uses provide adequate assurance that very little, if any, environmental impact will result from the handling and disposal of the small amounts of class I ODS used in such applications.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations because it does not affect the level of protection provided to human health or the environment. The controls in place for laboratory and analytical uses provide adequate assurance that very little, if any, environmental impact will result from the handling and disposal of the small amounts of class I ODS used in such applications.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in the Supplementary Information section of the preamble, including the basis for that finding.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Imports, Methyl chloroform, Ozone, Reporting and recordkeeping requirements.

Dated: January 16, 2015.

Gina McCarthy,

Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

■ 2. Amend § 82.8 by revising paragraph (b) to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

* * * * *

(b) A global exemption for class I controlled substances for essential

laboratory and analytical uses shall be in effect through December 31, 2021, subject to the restrictions in appendix G of this subpart, and subject to the recordkeeping and reporting requirements at § 82.13(u) through (x). There is no amount specified for this exemption.

* * * * *

[FR Doc. 2015–01295 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2014–0710; FRL–9921–90–Region 4]

Georgia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Georgia has applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this direct final rule. In the ''Proposed Rules'' section of today's **Federal Register**, EPA is also publishing a separate document that serves as the proposal to authorize these changes. EPA believes this action is not controversial and does not expect comments that oppose it. Unless EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Georgia's changes to its hazardous waste program will take effect. If EPA receives comments that oppose this action, EPA will publish a document in the **Federal Register** withdrawing today's direct final rule before it takes effect, and the separate document published in today's ''Proposed Rules'' section of this **Federal Register** will serve as the proposal to authorize the changes.

DATES: This final authorization will become effective on March 27, 2015 unless EPA receives adverse written comment by February 25, 2015. If EPA receives such comment, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2014–0710, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: gleaton.gwen@epa.gov.*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery or Courier:* Deliver your comments to Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: EPA must receive your comments by February 25, 2015. Direct your comments to Docket ID No. EPA–R04–RCRA–2014–0710. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made publicly 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 *www.epa.gov/epahome/dockets.htm*).

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov,* or in hard copy.

You may view and copy Georgia's application and associated publicly available materials from 8:00 a.m. to 4:00 p.m. at the following locations: EPA, Region 4, RCRA Division, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8500; and the Georgia Department of Natural Resources, Environmental Protection Division, 2 Martin Luther King Jr. Drive, Suite 1154 East Tower, Atlanta, Georgia 30334–4910; telephone number: (404) 656–2833. Interested persons wanting to examine these documents should make an appointment with the office at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8500; fax number: (404) 562–9964; email address: *gleaton.gwen@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal

regulations that EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized States at the same time that they take effect in unauthorized States. Thus, EPA will implement those requirements and prohibitions in Georgia, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

B. What decisions has EPA made in this rule?

On September 17, 2012, Georgia submitted a final complete program revision application, seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between July 1, 2007 and June 30, 2011 (also known as RCRA Clusters XVIII through XXI). EPA concludes that Georgia's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, EPA grants Georgia final authorization to operate its hazardous waste program with the changes described in the authorization application, and as outlined below in Section G of this preamble.

Georgia has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of HSWA, as discussed above.

C. What is the effect of this authorization decision?

The effect of this decision is that the changes described in Georgia's authorization application will become part of the authorized State hazardous waste program, and will therefore be federally enforceable. Georgia will continue to have primary enforcement authority and responsibility for its State hazardous waste program. EPA retains its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the State regulations for which Georgia is being authorized by today's action are already effective and enforceable requirements under State law, and are not changed by today's action.

D. Why wasn't there a proposed rule before today's rule?

Along with this direct final rule, EPA is publishing a separate document in the ''Proposed Rules'' section of today's **Federal Register** that serves as the proposal to authorize these State program changes. EPA did not publish a proposed rule before today because EPA views this as a routine program change and does not expect comments that oppose this approval. EPA is providing an opportunity for public comment now, as described in Section E of this preamble.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, EPA will withdraw today's direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposed rule mentioned in the previous section, after considering all comments received during the comment period, and will address all such comments in a later final rule. You may not have another opportunity to comment on these State program changes. If you want to comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, EPA will withdraw that part of today's direct final rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Georgia previously been authorized for?

Georgia initially received final authorization on August 7, 1984, effective August 21, 1984 (49 FR 31417), to implement the RCRA hazardous waste management program. EPA granted authorization for changes to Georgia's program on the following dates: July 7, 1986, effective September 18, 1986 (51 FR 24549); July 28, 1988, effective September 26, 1988 (53 FR 28383); July 24, 1990, effective September 24, 1990 (55 FR 30000); February 12, 1991, effective April 15, 1991 (56 FR 5656); May 11, 1992, effective July 10, 1992 (57 FR 20055); November 25, 1992, effective January 25, 1993 (57 FR 55466); February 26, 1993, effective April 27, 1993 (58 FR 11539); November 16, 1993, effective January 18, 1994 (58 FR 60388); April 26, 1994, effective June 27, 1994 (59 FR 21664); May 10, 1995, effective July 10, 1995 (60 FR 24790); August 30, 1995, effective October 30, 1995 (60 FR 45069); March 7, 1996, effective May 6, 1996 (61 FR 9108); September 18, 1998, effective November 17, 1998 (63 FR 49852); October 14, 1999, effective December 13, 1999 (64 FR 55629); November 28, 2000, effective March 30, 2001 (66 FR 8090); July 16, 2002, effective September 16, 2002 (67 FR 46600); November 19, 2002, effective January 21, 2003 (67 FR 69690); July 18, 2003, effective September 16, 2003 (68 FR 42605); January 27, 2005, effective April 20, 2005 (70 FR 12973); April 25, 2006, effective June 26, 2006 (71 FR 23864); and May 2, 2013, effective July 1, 2013 (78 FR 25579).

G. What changes is EPA authorizing with this action?

On September 17, 2012, Georgia submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Georgia's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Georgia final authorization for the following program changes:

Description of Federal requirement	Federal Register date and page	Analogous State authority [1]
217—NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments.	73 FR 18970, 04/08/08	391–3–11–.01(2) and 391–3–11–.10(2)–(3).
218—F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes.	73 FR 31756, 06/04/08	391–3–11–.01(2) and 391–3–11–.07(1).
220—Academic Laboratories Generator Standards	73 FR 72912, 12/01/08	391–3–11–.01(2); 391–3–11–.07(1); and 391–3–11–.08(1).
222—OECD Requirements; Export Shipments of Spent Lead-Acid Batteries.	75 FR 1236, 01/08/10	391–3–11–.01(2); 391–3–11–.08(1); 391–3–11–.09; and 391–3–11–.10(1)–(3).
223—Hazardous Waste Technical Corrections and Clarifications.	75 FR 12989, 03/1/10, 75 FR 31716, 06/04/10.	391–3–11–.01(2); 391–3–11–.02(1);, 391–3–11–.07(1); 391–3–11–.08(1); 391–3–11–.09; 391–3–11–.10(1)–(3); 391–3–11–.11(5)(f); and 391–3–11–.16.
225—Removal of Saccharin and Its Salts from the List of Hazardous Constituents.	75 FR 48918, 12/17/10	391–3–11–.01(2); 391–3–11–.07(1); and 391–3–11–.16.
226—Academic Laboratories Generator Standards Technical Corrections.	75 FR 79304, 12/20/10	391–3–11–.01(2) and 391–3–11–.08(1).
227—Revision of the Land Disposal Treatment, Standards for Carbamate Wastes.	76 FR 34147, 06/13/11	391–3–11–.01(2) and 391–3–11–.16.

[1] The Georgia provisions are from the Georgia Rules for Hazardous Waste Management, Chapter 391–3–11, effective as of August 7, 2012.

H. Where are the revised State rules different from the Federal rules?

There are no State requirements in the authorized program revisions listed above that are considered to be more stringent or broader in scope than the Federal requirements.

The EPA cannot delegate the import and export functions at 40 CFR part 262, subparts E and H, contained in the OECD Export Rule set forth in 75 FR 1236 (January 8, 2010). Georgia has adopted these regulations by reference at Georgia Hazardous Waste Management Rule 391–3–11–.08(1), and has properly reserved EPA's authority for their implementation at Rule 391–3–11–.01(2)(a).

I. Who handles permits after the authorization takes effect?

Georgia will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Georgia is not authorized.

J. What is codification and is EPA codifying Georgia's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of Georgia's changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart L, for the authorization of Georgia's program changes at a later date.

K. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law.

Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action 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 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in

accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

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. EPA will submit a report containing this document 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 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). This action will be effective March 27, 2015, unless objections to this authorization are received.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: January 13, 2015.

Heather McTeer Toney,

Regional Administrator Region 4.

[FR Doc. 2015–01040 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 84

[Docket No. CDC–2013–0004; NIOSH–216]

RIN 0920–AA42

Respirator Certification Fees

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) is revising the fee structure currently used by the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention (CDC), to charge respirator manufacturers for the examination, inspection, and testing of respirators which are submitted to NIOSH for the purpose of creating or modifying a certificate of approval. Existing regulations reflect prices for respirator testing and approval that were promulgated in 1972, and have not kept pace with the actual costs of providing these services that benefit respirator manufacturers. This final rule is designed to update the regulations.

DATES: This final rule is effective on May 26, 2015.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst; 1090 Tusculum Ave., MS: C–46, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION: This final rule is designed to establish fees for the following: (1) Reviewing applications submitted to NIOSH; (2) issuing a certificate of approval; (3) modifying a certificate of approval; (4) maintaining a certificate of approval; (5) performing specific, standard laboratory tests which are requested by applicants; (6) developing and/or performing novel tests which are required to evaluate respirator performance; (7) qualifying applicant respirator production sites and quality systems; (8) verifying quality system performance through manufacturing site quality audits; (9) verifying commercially available respirator performance through product quality audits; (10) replacing testing equipment; and (11) providing and maintaining laboratories and office space.

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I. Public Participation

Interested persons or organizations were invited to participate in this rulemaking by submitting written views, recommendations, and data. In addition, HHS invited comments specifically on the following:

(1) To delay the implementation of the approval [1] maintenance fee specified in ''Respirator Certification Fee Schedule A—Administrative Fees'' [2] until 4 months after the publication date of the final rule to allow current approval holders to adjust their inventory of old, obsolete, or marginally profitable certificates of approval. In particular, HHS invited comments on whether 4 months after publication of the final rule allows for a sufficient amount of time to make such adjustments; and

(2) One year as the minimum amount of time for new fees to remain in effect to provide manufacturers sufficient time to plan for application submissions and to determine which approvals to maintain.

Substantive comments were submitted by 11 interested parties, both to the rulemaking docket and during the public meeting held April 30, 2013. Commenters included respirator manufacturers, trade associations, and a private testing laboratory.

II. Background

Under 42 CFR part 84—Approval of Respiratory Protective Devices, NIOSH approves respirators used by workers in mines and other workplaces for protection against hazardous atmospheres. The Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) require U.S. employers to supply NIOSH-approved respirators to their employees whenever the employer requires the use of respirators. NIOSH currently charges fees for the examination, inspection, and testing of such respirators which is necessary to grant the required approval. This final rule is designed to ensure that all approval activities are covered by appropriate fees, to update the fees charged, and to create a

[1] This fee was improperly referenced as the ''approval'' maintenance fee when HHS was instead requesting input on the records maintenance fee. As discussed below, commenters did offer feedback on the timing of the records maintenance fee.

[2] The final fee schedules have been renamed and slightly reorganized and will be added to 42 CFR part 84 as appendices A and B. The fee schedules appear in full at the end of this document, following the regulatory text.

mechanism for routinely updating fees in the future.

Accordingly, with this rule, and for the reasons discussed in the notice of proposed rulemaking published on March 27, 2013 (78 FR 18535), HHS updates the fee structure for the inspection, approval, and certification of manufacturers' respirators to cover the costs of these processes, and establishes a process to periodically update these fees through rulemaking as necessary to remain current with changes to costs arising from factors such as inflation, new certification requirements, and technological changes.

III. Summary of Final Rule and Response to Public Comments

This final rule amends several sections in 42 CFR part 84 and replaces Subpart C—Fees in its entirety. The revisions establish a new fee structure designed to enable NIOSH to fully recover the costs associated with the examination, inspection, and testing of complete respirator assemblies. Unlike the existing fee structure, the new fee structure takes into account the complexity of the class of respirator and the amount of testing required, as well as the work and resources required to perform the testing. Also, the new fee structure charges applicants for the costs of issuing, modifying, and maintaining certificates of approval, production facility inspection (site qualification fee), and for verification of ongoing quality system compliance and commercial product performance.

The fee schedule is divided into two parts—Fee Schedule A comprises annual (fixed) fees; Fee Schedule B comprises application-based fees, including fees for individual test procedures. The fee schedules are included in new Appendices A and B to the regulatory text in Part 84. The final rule and fee schedules will be effective on May 26, 2015. As described in Appendix A, annual fees, including records maintenance, quality assurance maintenance, maintenance of testing and approval facilities, and maintenance of test equipment, will not be invoiced until 2015. As described in the fee schedule, NIOSH will send invoice previews to manufacturers for maintenance fees in July 2015 and final invoices in September 2015, with payment expected no later than October 30, 2015; all other services will be billed upon completion of the project for which they were conducted. Subsequent fee schedules will be updated periodically by notice and comment rulemaking in the **Federal Register**, according to the provisions in § 84.23, discussed below.

The following summary of public comments and NIOSH responses to the comments is organized by topic and by section, and describes and explains the provisions of the final rule.

Overall Response

Comment: Six commenters express unequivocal support for the fee increases. Of the six, some state that they understand NIOSH's need to raise testing and certification fees, after not having done so in over 40 years. Two suggest that it is reasonable for manufacturers to expect NIOSH to provide improved services as a result of the higher fees.

Two commenters express concern that increased fees would reduce worker safety. Specifically, one commenter is concerned that the fee increase may cause ''manufacturers [to] scale back their research and development.'' Another suggests that higher fees would be ''passed on to the user in the form of higher prices.''

Response: NIOSH recognizes the concerns expressed by the commenters. However, NIOSH does not believe that the fee increases, being relatively minor (as discussed in Section IV.A. of this preamble) could have a negative effect on research and development activities or the appropriate use of respirators. Furthermore, in accordance with OMB Circular No. A–25 Revised (OMB Circular), it is NIOSH's obligation to ''ensure that each service, sale, or use of Government goods or resources provided by an agency to specific recipients be self-sustaining.''

Use of Fee Increases

Comment: Three commenters state that it is imperative that NIOSH does not transfer resources resulting in a reduction in service or an increase in certification processing time. The commenters encourage NIOSH to use the increased fees to add equipment or otherwise improve the certification process. Some commenters further assert that NIOSH should use the revised fees to establish firm certification time requirements or to maintain its current goal of completing respirator approvals within 90 days. Finally, one commenter indicates that some certification agencies offer expedited service for a higher fee and encourages NIOSH to pursue this possibility.

Response: NIOSH has historically used retained fees within the certification program to maintain and improve current operations (*e.g.,* to replace equipment and supplies), and intends to continue using the collected fees to augment certification activities. NIOSH is committed to working with manufacturers to maintain efficient turnaround times and expeditiously process the certification applications. NIOSH is also committed to equitable treatment of applicants without regard to ability or willingness to pay and accordingly will not establish expedited testing services on a supplemental fee basis.

Comment: One commenter suggests that the revised fees should support a higher priority for correlation testing.

Response: The revised fee schedules are not intended to support a higher priority for correlation testing, although NIOSH will continue to provide this service to applicants. NIOSH prioritizes activities that most directly increase, monitor, and ensure the quality of the national inventory of respiratory protective devices.

Number of Approvals

Comment: Several of the annual administrative and maintenance fees in Fee Schedule A are applicable ''per every active approval on file with NIOSH.'' Two commenters request clarification of the meaning of the phrase ''every active approval on file,'' and ask whether ''every active approval'' is intended to indicate every respirator model or every NIOSH testing and certification (TC) number.

Response: ''Every active approval'' means every TC number on file with NIOSH; TC numbers are issued to identify specific respirator approvals. NIOSH recognizes three kinds of approvals: active, obsolete, and revoked/rescinded; the NIOSH Certified Equipment List (CEL) contains all active and obsolete approvals and does not contain revoked/rescinded (delisted) TC numbers. Together, active and obsolete approvals are referred to as ''listed'' approvals.

Active approvals are those under which a manufacturer is currently authorized by NIOSH to produce and offer for sale respirator configurations represented as NIOSH-approved devices.

Obsolete approvals are also considered to be active approvals because the respirator model is still being used in the workplace and the manufacturer can continue to sell spare parts for the fielded units even though the device is no longer being manufactured and there is no plan to resume production. NIOSH retains and actively maintains the records of obsolete approvals.

Delisted approvals have been removed from the CEL product listings

through either NIOSH revocation for cause or the approval holder's request for voluntary rescission of approval. NIOSH archives the records of revoked or rescinded approvals.

Where applicable to both active and obsolete approvals in the fee schedule, NIOSH has replaced the term ''active'' with ''listed.''

Comment: One commenter suggests that NIOSH should determine how a manufacturer can obsolete an approval.

Response: To obsolete an approval, manufacturers should submit a *Standard Application for the Approval of Respirators* to NIOSH and specify in the ''application type'' section of the application that they desire to obsolete the existing approval. The *Standard Application Procedure for the Certification of Respirators under 42 CFR 84* (*Standard Application Procedure*) will be updated to inform manufacturers of the procedures to follow to obsolete an approval.

Comment: Three commenters express concern that the NIOSH Certified Equipment List (CEL) and the manufacturers' internal records of approvals may not agree. They would also like a method for resolving discrepancies and ask that NIOSH provide a list of current active, obsolete, and inactive approvals.

Response: NIOSH considers the information in the Certified Equipment List to be correct and that the CEL is the official location of these records. If an approval holder has a discrepancy they should contact NIOSH for resolution and clarification. As requested, NIOSH will send each manufacturer a list of current approvals.

Assignment of Testing and Certification (TC) Numbers

Comment: Two manufacturers express concerns that the procedures for assigning approval (TC) numbers to respirator configurations are not well-defined or consistent. Commenters argue that NIOSH practice is to issue ''separate approval numbers for variations of a device rather than allowing variations to be included in the umbrella of a single approval,'' and that more approval numbers will result in more fees.

Response: NIOSH determines whether a requested configuration can be evaluated as a modification to an existing approval or requires a new TC number during the application review process. If a change is made to an approved respirator configuration that allows the end-user to be able to build more than one unique configuration that does not visually appear the same or does not provide the same protections as the approved configuration, a new TC number is issued for the modified configuration. If the modification does not substantially change the appearance or performance of the respirator, the modification will be incorporated into the existing TC number. The original configuration will retain the existing TC number.

Revision of Standard Application Form

Comment: One commenter suggests that the *Standard Application for the Approval of Respirators* should be revised to include the standard test procedure (STP) identification numbers to assist in aligning certification activities and expected fees.

Response: NIOSH concurs with the need for improved tools and information for manufacturers to align activities with fees, and accepts the recommendation to link the STPs to certification activities and fees in the *Standard Application Procedure,* which will be revised for this purpose.

Testing by Private Sector Laboratories

Comment: One commenter suggests that NIOSH pursue the use of private sector laboratories to do certification testing rather than establishing fees to cover the current costs of testing by the government.

Response: NIOSH has, at times, used third parties to perform certain specific parts of respirator testing activities. For example, chemical warfare agent tests (conducted to evaluate chemical, biological, radiological, and nuclear protections) are presently performed by the U.S. Army Edgewood Chemical and Biological Center with oversight provided by NIOSH. NIOSH is continuing to assess options for third party testing. However, the matter is outside the scope of this rulemaking. No changes to the final rule are made in response to this comment.

Air-Supplying Respirator Clarification

Comment: One commenter is concerned about the use of the terms ''air-supplying'' and ''air-supplied'' rather than ''atmosphere-supplying'' to specify one of the broad groupings of respirators referenced in the proposed rule preamble and in Fee Schedule B. The commenter's specific concern is whether respirators that supply oxygen by means of chemical oxygen generation or using compressed oxygen will no longer be approved by NIOSH.

Response: Respirators approved by NIOSH fall into two broad categories: ''Air- or atmosphere-supplying'' and ''air- or atmosphere-purifying.'' NIOSH has consistently used the phrases ''air-supplying'' and ''air-supplied'' throughout 42 CFR part 84 and other official NIOSH documents to refer to respirators which supply air to the respirator user from remote air supplies, chemical generation of oxygen, controlled release of compressed oxygen, or other means of supplying air/oxygen. The Occupational Safety and Health Administration uses the term ''atmosphere-supplying respirator'' in 29 CFR 1910.134 to refer to a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units. NIOSH considers the terms ''air-supplying,'' ''air-supplied,'' and ''atmosphere-supplying'' to be equivalent.

NIOSH will continue to use the phrases ''air-supplying'' or ''air-supplied'' to describe this type of respirator. Use of these terms does not reflect any change in policy or regulation about the types of respirators which are referenced or will be approved.

Balance of Fees Between Small and Large Companies

Comment: One commenter expresses concern that NIOSH's plan to base fees on the number of existing approvals will minimize fees to small companies that hold a limited number of approvals but also may give them an unfair advantage by conveying benefits and services which are not fully covered by the fees that they are charged. For example, the commenter points out that because the new fees will be assessed per every active approval on file with NIOSH, manufacturers with few approvals will not be charged for ''services and benefits that they alone receive,'' such as the quality site audit.

Response: NIOSH is committed to ensuring that the fees charged to small and large companies are commensurate with their costs. NIOSH finds that a fee based on the number of approvals held is appropriate for recovering fixed costs. However, because NIOSH does acknowledge this approach may not always recover the full cost of services to companies with a very limited number of approvals, NIOSH is expanding the use of the concept of fixed costs and variable costs to the quality assurance maintenance (site audit), maintenance of product performance (product audit), and site qualification fees (discussed below). Where possible, fixed costs will be broken out and based on the broadest possible base (such as number of approval holders or number of listed approvals held). Likewise, variable costs

will be calculated and fees will be based on one or more measures associated with the work performed. NIOSH has determined that these modifications will more equitably support the actual usage of the various NIOSH services as well as contributing to the costs for maintaining their continued availability.

Section 84.2 Definitions

This existing section establishes definitions of terms found in the Part 84 regulations.

Comment: One commenter indicates that NIOSH must add a definition for NIOSH National Personal Protective Technology Laboratory (NPPTL). Another commenter indicates that the definition of Certification and Quality Assurance Branch (CQAB) should be stricken from 42 CFR 84.2.

Response: The definition of NPPTL was proposed in the notice of proposed rulemaking and is included in 42 CFR 84.2. Further, NIOSH agrees that the definition of ''Certification and Quality Assurance Branch'' is outdated, and is stricken from § 84.2. The term ''Certification and Quality Assurance Branch'' is replaced with ''National Personal Protective Technology Laboratory (NPPTL).'' As discussed below, all references to the ''Certification and Quality Assurance Branch'' are stricken from all of Part 84. Finally, the definition of ''Institute'' is also slightly amended to include the acronym ''NIOSH.''

Section 84.10 Application Procedures

This existing section establishes procedures for submitting applications to NIOSH for respirator approval. Although no comments were received on this section, changes have been made to this section to clarify that applications must be submitted in accordance with the *Standard Application Procedure.* The text has also been changed to acknowledge that the NIOSH National Personal Protective Technology Laboratory may use an independent laboratory to conduct certification testing, at its discretion.

Section 84.12 Delivery of Respirators and Components by Applicant; Requirements

Section 84.12 specifies the requirements for submitting respirators to NIOSH for certification testing. Paragraph (b) of this existing section is revised to identify NPPTL as the entity to which applicants must deliver respirator units for certification testing. Although no comments were received on this section, the text has been changed slightly to clarify our intent.

Section 84.19 Applicability

Proposed § 84.19 was intended to specify the effective dates of various parts of the rule. However, because this section was confusing and NIOSH's intent better communicated by extending the effective date of the rule and clarifying the dates in the fee schedule, this section has been stricken.

Comment: Two commenters suggest alternate phase-in schedules for the new fees, citing a concern that manufacturers will find the 4-month implementation plan to be a hardship. One suggests that NIOSH should phase in the new fee schedule over the course of 3 years; the other was to delay implementation for 18 months for current approval holders.

Response: After consideration of public comments as well as programmatic administrative concerns, NIOSH has found it appropriate to extend the effective date of this final rule to 120 days after publication. Accordingly, the application-based fees in Appendix B, as well as the product audit fee in Appendix A will be effective and applicable beginning on [INSERT DATE 120 DAYS AFTER PUBLICATION IN THE **Federal Register**]. The fixed fees in Appendix A will be determined on a typical annual period. Manufacturers will be sent an invoice preview showing initial fixed (annual) fee assessments for records maintenance, quality assurance maintenance, and maintenance of testing and approval facilities and test equipment in July 2015 and a final invoice in September (with payment expected by the end of October 2015). If an approved respiratory protective product has been selected for evaluation in a product audit as part of the planned quality assurance maintenance activities for the upcoming year, the invoice will include a fee to cover NIOSH purchase of audit product samples. The assessed fee for purchase of audit samples can be reduced or eliminated if test samples are made available to NIOSH without charge.

Section 84.20 Establishment of Fees

Section 84.20 replaces existing § 84.20 in its entirety. Paragraph (a) establishes the fee structure for the examination, inspection, and testing required to issue, maintain, and modify certificates of approval. Paragraph (b) specifies the activities for which NIOSH will charge fees, including (1) application and approval processing; (2) approval maintenance, including records management, product audits, and site audits; and (3) the qualification of new respirator production sites. Finally, paragraph (c) specifies the activities for which NIOSH does not intend to charge fees. HHS received many comments on the specific fees within § 84.20; those comments and the corresponding responses are identified by paragraph, below. Changes have been made to the rule text to better clarify our intent, and changes to the fee schedule have been made in response to public comment. The specific changes are discussed below.

Application Processing [§ 84.20(b)(1)]

Comment: One commenter believes that applications vary in complexity and, therefore, more NIOSH resources will be required for issuing, modifying, and maintaining certificates of approval for more complicated devices as compared to simpler ones. According to the commenter, applications requiring more resources should result in higher fees than ones requiring less information and material.

Response: The commenter correctly points out that the time to process different applications is variable. NIOSH concurs that this variability is not reflected anywhere in the current or updated fees process. The proposed fee was calculated to cover an application time of 4 ± 2 hours, which is the average amount of time it takes NIOSH to complete a review of the application. In NIOSH's experience, very few applications require more than 6 hours to complete. To address variation between application processing times, NIOSH will retain a single basic application fee of $200 per application to be submitted with each application. Because NIOSH has not historically tracked application processing times, we will monitor the application processing times to obtain current information during implementation of the new fee structure. As discussed below, the fee schedules will be reviewed every two years to assure that the fees are being assessed as intended.

Comment: Two commenters observed that modifications of approvals vary in complexity and, therefore, the resources required for processing them vary as well. Applications requiring more resources should cost more than ones requiring less information and material. Another commenter suggests that fees for modification of approvals (*e.g.,* ''adding new cleaning and disinfection procedures to the Instructions for Use, document format changes and any other type of modification to the records that may be currently on file at NIOSH where testing is not required'') should incur lower fees or include only the application fee and not the product modification fee.

Response: The modification of approval fee covers the cost of issuing the modification, which is basically a fee for generating a written letter to approval holders acknowledging the modification of certification. The costs associated with processing approval modifications do not vary significantly. Differences in the complexity of a modification of approval are captured in the same way as applications for new approval with the variable application and testing fees. The application fee is set at $100 for each new approval granted; the approval modification fee is set at $50 for each modification of an existing approval. No changes to the fee schedule have been made in response to this comment.

Records Maintenance [§ 84.20(b)(1)]

Comment: One commenter does not concur with NIOSH's assertion that records maintenance fees are predicated on an analysis of the OMB Circular, which requires agencies to establish charges for special benefits provided to specific recipients. One example of a special benefit is a license to carry on a specific activity. The commenter ''contends that the special recipient is actually the respirator user,'' and not the manufacturer.

Response: As discussed in the notice of proposed rulemaking (78 FR 18535, 18537), NIOSH finds that because manufacturers derive economic benefit from the sale of respirators which would not be possible without NIOSH approval, the approval is a license, and the manufacturer is the special beneficiary. Although the current fee structure and rates have not been adjusted in recent years to cover the actual program costs for the examination, inspection, and testing of complete respirator assemblies, the principle of the government recovering fees from the applicant are traceable to the origins of the standards.

Comment: Eight stakeholders comment on the records maintenance fee. One questions whether the fee implies that NIOSH will review all approvals annually, and recommends that we base the records maintenance fee on the complexity of the device and the number of records associated with the approval. Another asserts that since NIOSH does not maintain samples of approved products, approvals should require very little maintenance, and that there should be no costs to manufacturers. The commenter further states that the records maintenance fee ''appears to be more of a NIOSH imposed manufacturer tax.'' The remaining commenters feel either that records maintenance fees should be the same for all approvals regardless of status, or alternatively that they should not be the same and should instead be based on the approval status (active, obsolete, or revoked/rescinded).

Response: The records maintenance fee pays for the computer database used to hold and access all of the records of listed (active and obsolete) approvals. The fee also pays for NIOSH staff to maintain and modify the database. All active and obsolete approval records must be retained, retrievable, and maintained, even though they may not be routinely used, reviewed, or inspected.

NIOSH has considered basing the fee on the number of approval holders (manufacturers) or, alternatively, on the number of records in the files. Neither of these options would improve the proposed fee structure in terms of equitably distributing costs among approval holders. Therefore, HHS finds it appropriate to establish a flat fee for records maintenance for all listed approvals, based on the number of active and obsolete approvals contained in the NIOSH Certified Equipment List, as presented in the proposed rule.

Maintenance of NIOSH Facilities and Test Equipment [§ 84.20(b)(2)]

Comment: One commenter agrees that the facilities maintenance fee is fixed and independent of certification activity or approval status in any given year. Two commenters suggest that maintenance fees should be based on the activity status of respirator approvals. Two commenters state that any maintenance fee is an economic hardship that could ''ultimately lead to diminished availability of variations and choices to the users.''

Response: Maintenance of facilities is a fixed cost. NIOSH has determined that it is equitable to spread this cost over all approvals. For these purposes, the activity status of an application is not an important cost factor. NIOSH has retained the proposed maintenance of facilities fees.

Comment: One commenter suggests that testing equipment depreciation be spread out over the life of the equipment. One manufacturer comments that the testing fees should be modified to capture the depreciation cost associated with maintaining testing capacity.

Response: Maintenance of test equipment is a fixed cost. NIOSH can neither predict which applications will be submitted by manufacturers, nor which pieces of equipment will be required to support these applications. Therefore, we cannot estimate the use of each piece of equipment and incorporate that into the testing fees schedule. However, NIOSH recognizes that listed approvals identified as obsolete are not expected to require the use of test equipment. Accordingly, NIOSH has determined that it is equitable to spread this cost over all listed active approvals and to exempt facilities maintenance fees for listed obsolete approvals, and has so amended Fee Schedule A.

Site Qualification [§ 84.20(b)(3)]

Comment: One commenter asks if the site qualification fee is intended for new manufacturers who do not yet have NIOSH approvals or if it is intended for the routine ongoing factory quality system audits. Four commenters state that the $5000 fixed cost for a new site qualification should be reconsidered in favor of charging direct and true costs.

Response: The site qualification fee is different from the quality assurance maintenance (site audit) fee: The former provides for a one-time inspection of new production facilities; the latter for the ongoing manufacturing quality system audits NIOSH requires of approval holders. As discussed in the notice of proposed rulemaking (78 FR 18535, 18544), the site qualification program is designed to cover three groups of manufacturers. The first group consists of manufacturers with no approvals who want to receive a 3-letter manufacturer's code. This is the first step in submitting a respirator for NIOSH approval. The code is issued after receipt of an application if NIOSH is satisfied that the potential approval holder has the capabilities and documented system required to manufacture a quality product; the site qualification inspection is a tool to provide that assurance. The manufacturers in this group are basically unknown to NIOSH, and will have a site visit to determine their manufacturing abilities and credibility to become an approved respirator manufacturer.

The second group consists of manufacturers that have one or more listed NIOSH-approved respirators and that are in the process of opening a new manufacturing site for the production of respirators. These manufacturers will require a document review to determine their manufacturing capabilities to produce approved respirators at the new site.

The third group consists of NIOSH approval holders that have been acquired by another entity and the manufacturing site for the production of approved respirators is relocated to a new site. These manufacturers will also require a document review to determine

their manufacturing capabilities to produce approved respirators at the new site.

In response to public comments, NIOSH has reconsidered the site qualification fee, which will now distinguish between the cost of a paper-based review for the new manufacturing site of an existing approval holder and the actual cost of a one-time site visit for manufacturers with no existing approvals. Flat fees will be established for the inspection of domestic and foreign manufacturing sites, respectively. Fee Schedule B has been amended accordingly.

Quality Assurance Maintenance (Site Audits) [§ 84.20(b)(4)]

Comment: Six commenters express concern about using the number of approvals as the basis for calculating the quality site audit fee. All six commenters suggest that the fees should be tied to the actual (or average) cost to perform each site audit. One commenter asks for clarification of the intent of this fee, and claims that the quality assurance maintenance fee and the maintenance of product performance fee (discussed below) will result in economic hardship to manufacturers, which in turn will impact the U.S. workforce and the ''overall safety of the working public.''

Response: The fees for the site audit program are divided between management of the site audit program (largely fixed costs) and individual quality audits and associated expenses (variable costs). NIOSH has modified the site audit fee in response to the commenters' request that the fee be more equitably allocated. Accordingly, the quality assurance maintenance (site audit) fee will be a combination of fixed and variable costs. Beginning in 2015, manufacturers will be charged annually a flat fee per every manufacturing site registered with NIOSH (those sites that exclusively conduct design activities are exempt from this annual fixed fee). Variable fees will be billed within the fiscal year during which the site audit is conducted, and are established based on the duration of the audit (either 1 or 2 days) and whether the site is domestic or outside the United States. Any site that is not scheduled to be audited within a fiscal year will not be billed the variable fee for that year. The variable cost fee also applies to sites that only do design. Fee Schedule A has been amended accordingly.

Maintenance of Product Performance (Product Audits) [§ 84.20(b)(5)]

Comment: One commenter stated that NIOSH should not be billing manufacturers for product audits because manufacturers have no input in determining which products NIOSH will select for audit. One commenter feels that, ''[s]ince NIOSH does not typically maintain samples of approved products there should be no reason to charge the Manufacturers a fee for the maintenance.'' If a change of the product or design of any type is requested by the manufacturer, it will be submitted to NIOSH as an Extension of Approval at which time the submittal fee is charged.'' Another commenter states that NIOSH should charge each approval holder directly for the cost of product audits, rather than add the fee to a modification request. One commenter further supports the use of a respirator selection audit logic to establish an audit schedule for the upcoming year, allowing NIOSH time to notify manufacturers that a charge is forthcoming.

Response: The maintenance of product performance fee allows NIOSH to purchase and test commercially available respirators for audit. The purpose of the NIOSH product audit program is to select respirators for sale in the marketplace and test them in the laboratory to verify that approved manufacturing systems are meeting NIOSH quality standards. Participating in the product audit program is an obligation of all approval holders, and all listed approvals are subject to audit.

NIOSH has a process in place to identify and help prioritize the identification of respirator configurations for audit activities. NIOSH introduced the ''Default to Test'' procedures in 2009 to support the product audit program. These procedures were implemented to help locate and procure samples of product for testing, and were developed to work within funding limitations that constrained the number and types of respirator configurations as well as how many products NIOSH could accommodate for testing and evaluation. NIOSH is exploring approaches to be able to efficiently, effectively, and economically obtain candidate respirators for product audit without placing undue burden on the manufacturers of those products. The increased fees recovered for product audits will enable NIOSH to redesign the product audit program, to make its scope and content more consistent with the wide variety of products being marketed under the NIOSH approval label.

Manufacturers can defray the audit costs by providing sample units rather than providing funds to NIOSH to purchase the samples. Respirators selected for audit may be obtained from distributors and other typically available market outlets, or directly from the manufacturer during production runs.

In response to comments, NIOSH agrees to de-couple the maintenance of product performance (product audit) fee from the fee for approval modification. The product audit fee is segmented into an annual fixed cost fee and a variable cost fee that is assessed based on the respirators chosen to be tested each year. The fixed cost portion of the fee is designed to cover the cost of staff associated with product audit program management. The variable fee is designed to cover the cost to NIOSH of obtaining sample respirators and performing the audit tests. This variable fee will be collected for the same fiscal year in which the product audit is scheduled to occur. The fee schedules have been changed accordingly.

Comment: One commenter inquires whether the closed-circuit escape respirators sampled in the Long-Term Field Evaluation (LTFE) program will be billed to the approval holder as a component of the product audit sampling program.

Response: Although the LTFE program is a component of the product audit program, respirators used in the LTFE program are currently not billed to the approval holder. Approval holders will, however, be billed for closed-circuit escape respirators chosen for routine audit sampling.

Section 84.21 Fees Calculation

Section 84.21 specifies how fees will be calculated and administered. Although no comments were received on this section, the rule text is changed to better clarify our intent.

Section 84.22 Fee Administration

Section 84.22 establishes the procedure NIOSH will use to invoice applicants. Although there are no changes made to this section as a result of public comment, HHS is making slight adjustments to the rule text in paragraphs (a) and (b) to clarify our intent.

Comment: Four commenters ask that the fee system be as simple as possible and that manufacturers receive a single, consolidated maintenance invoice at the same time each year. One commenter asks whether manufacturers will be invoiced on a calendar year or on the U.S. Government fiscal year basis. They also requested that online billing be available so that manufacturers can ''view and update their records without an overabundance of paperwork.''

Response: NIOSH intends to send a single consolidated invoice for annual maintenance fee assessments in the month of September, with payment expected in October. *Pay.gov* will be available for online fee collection, and we expect it to become the preferred means for the collection of fees in the future.

Comment: One manufacturer concurs that NIOSH should have the ability to impose sanctions on manufacturers who may miss one or several payments, but requests clarification regarding what constitutes a missed payment. The commenter proposes that a minimum period of 120 days from the date of the invoice be allowed before the payment is considered to be ''missed.''

Response: Standard government contracts are written in terms of ''net 60 days.'' This implies a standard payment period of 60 days. Late payment notices are typically sent at 60 and 90 days. Missed payment activity would typically start at 120 days. Accordingly, NIOSH will send late payment notices at 60 and 90 days and missed payment activity will start at 120 days.

Section 84.23 Fee Revision

Section 84.23 establishes the fee schedules for NIOSH's respirator certification activities.

Comment: Three commenters ask that NIOSH provide a formal mechanism for public comment prior to any future revisions to the fee schedules.

Response: NIOSH agrees to propose future fee schedule revisions in the **Federal Register**, subject to public comment. Accordingly, the fee schedules are added to 42 CFR part 84 in a new Appendix A (annual fees) and a new Appendix B (application-based fees).

Comment: One commenter suggests that a 1-year period between revisions of fees schedules will not allow sufficient time for companies to plan. The commenter proposes a fixed 5-year interval for fee revisions with no revisions outside of the 5-year cycle.

Response: HHS agrees that the proposed 1-year interval between revisions of the fee schedules may not provide sufficient time for planning; however the 5-year minimum suggested by the commenter will be inadequate to keep fees reasonably updated. Variables such as inflation and other factors that might affect the cost of testing supplies will be taken into account as NIOSH updates the fee schedules. Accordingly, in response to public comment and in accordance with the OMB Circular, the rule text is changed to establish a 2-year minimum interval for fee schedule revisions. The text is further changed to indicate that the fee schedules will not be revised at least once every 5 years, as proposed, and instead will be revised as needed based on the biennial reviews.

Section 84.24 Authorization for Additional Tests and Fees

Section 84.24 allows NIOSH the discretion to conduct special or additional examinations, inspections, or tests, apart from those specified for a particular respirator class under this Part, as might be necessary due to unusual characteristics of the respirator design, manufacturing information, or product samples. The text has been changed to acknowledge that the NIOSH National Personal Protective Technology Laboratory may use an independent laboratory to conduct certification testing, at its discretion. No comments were received on this section.

Section 84.36 Delivery of Changed or Modified Approved Respirator

Section 84.36 informs manufacturers that respirators for which a formal certificate of modification has been issued should be delivered to the National Personal Protective Technology Laboratory, rather than the Certification and Quality Assurance Branch.

Section 84.41 Quality Control Plans; Contents and 84.43 Quality Control Records; Review by the Institute; Revocation of Approval

Existing §§ 84.41 and 84.43 establish requirements for quality control plans and records. These sections are amended to replace reference to the ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.66 Withdrawal of Applications

Existing § 84.66 establishes procedures for the withdrawal of respirator certification applications. Paragraph (b) directs stakeholders to the fee calculation procedures in § 84.21(e) for the withdrawal of applications, where NIOSH has already performed some administrative and/or testing services. There are no changes made to this section as a result of public comment.

Comment: In response to NIOSH's statement in the preamble to the proposed rule that more information about billing will be available in the guidance document *Standard Application Procedure,* one commenter says that the current edition of the *Standard Application Procedure* does not address billing under the new rule and that the new billing procedures were not made available for public comment.

Response: NIOSH respirator certification fee estimates will be calculated according to the procedures established in § 84.21. Paragraph (e) of that section concerns those applications for which a manufacturer opts to withdraw an application but NIOSH has already begun application review and testing. In that case, according to § 84.21(e), the applicant will be invoiced for services already performed by NIOSH.

Although HHS provided an opportunity to comment on the proposed withdrawal billing procedures in § 84.21(e), no comments were received.

Section 84.76 Facepieces; Eyepieces; Minimum Requirements

Existing § 84.76 establishes minimum requirements for facepieces and eyepieces for self-contained breathing apparatus. The text in paragraph (b) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.79 Breathing Gas; Minimum Requirements

Existing § 84.79 establishes minimum requirements for breathing gas. The text in paragraphs (c) and (d) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.81 Compressed Breathing Gas and Liquefied Breathing Gas Containers; Minimum Requirements

Existing § 84.81 establishes minimum requirements for compressed breathing gas and liquefied breathing gas. The text in paragraph (d) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.97 Test for Carbon Dioxide in Inspired Gas; Open- and Closed-Circuit Apparatus; Maximum Allowable Limits

Existing § 84.97 establishes the method NIOSH uses to measure the concentration of carbon dioxide in inspired gas in open- and closed-circuit respirators. The text in paragraph (a) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.110 Gas Masks; Description

Existing § 84.110 includes descriptions of different types of gas masks. The text in paragraph (c) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.113 Canisters and Cartridges; Color and Markings; Requirements

Existing § 84.113 establishes requirements for the color and markings of canisters and cartridges or labels. The text is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.119 Facepieces, Eyepieces; Minimum Requirements

Existing § 84.119 establishes the minimum requirements for facepieces and eyepieces for gas masks. The text in paragraph (b) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.136 Facepieces, Hoods, and Helmets; Eyepieces; Minimum Requirements

Existing § 84.136 establishes the minimum requirements for facepieces, hoods, and helmets for gas masks. The text in paragraph (b) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.141 Breathing Gas; Minimum Requirements

Existing § 84.141 establishes the minimum requirements for breathing gas for supplied-air respirators. The text in paragraphs (b) and (c) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.193 Cartridges; Color and Markings; Requirements

Existing § 84.193 establishes requirements for the color and markings of all cartridges or labels. The text is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.258 Fees

Existing § 84.258 is removed from subpart N. This section contains a special respirator fee schedule for vinyl chloride respirators. The fees established by this final rule under § 84.21 apply to this group of respirators. No comments were received on this section.

Section 84.1102 Fees

Existing § 84.1102 is removed from subpart KK. This section contains a special respirator fee schedule for a series of respirators, including powered air purifying respirators. The fees that are established by this final rule under § 84.21 apply to this group of respirators. No comments were received on this section.

Section 84.1136 Facepieces, Hoods, and Helmets; Eyepieces; Minimum Requirements

Existing § 84.1136 establishes the minimum requirements for facepieces, hoods, and helmets for dust, fume, mist, pesticide, paint spray, and powered air-purifying high efficiency respirators and combination gas masks. The text in paragraph (b) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.1154 Canister and Cartridge Requirements

Existing § 84.1154 establishes requirements for two or more canisters and for color and markings of canisters or cartridges and labels for facepieces, hoods, and helmets for dust, fume, mist, pesticide, paint spray, and powered air-purifying high efficiency respirators and combination gas masks. The text in paragraph (b) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Section 84.1157 Chemical Cartridge Respirators With Particulate Filters; Performance Requirements; General.

Existing § 84.1157 establishes minimum requirements for the performance and protection of chemical cartridge respirators with particulate filters. The text in paragraphs (d)(5) and (e)(5) is amended to replace ''Certification and Quality Assurance Branch'' with ''National Personal Protective Technology Laboratory.''

Appendix A and Appendix B

Appendix A is added to Part 84 to establish the fee schedule for annual (fixed) respirator certification fees. Appendix B is added to Part 84 to establish the fee schedule for application-based respirator certification fees.

IV. Regulatory Assessment Requirements

A. Executive Order 12866 and Executive Order 13563

Executive Order 12866 and Executive Order 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).

This final rule is not being treated as a ''significant regulatory action'' within the meaning of E.O. 12866. The final rule is not considered economically significant, as defined in section 3(f)(1) of the executive order, and does not raise novel policy issues or have any of the other effects specified in section 3(f)(2)–(4). Thus, this rule has not been reviewed by the Office of Management and Budget (OMB).

NIOSH approves two categories of respirators: air-purifying respirators (APR), which filter contaminants in the environment (ambient air); and air-supplying respirators (ASR), which provide the user with clean breathing air (from a supply separate from the ambient air). APR includes particulate respirators, like the disposable N95 commonly used in healthcare settings; the elastomeric respirator with replaceable filters (*i.e.,* ''gas mask''); and the powered air-purifying respirator (PAPR), which employs a battery-powered blower to move breathing air through the filters.

ASR includes respirators that deliver breathing air to the wearer, using either compressed or chemical breathing air or a remote source. The respirator types in this category include the self-contained breathing apparatus (SCBA) commonly worn by members of the fire service; the closed-circuit escape respirator (CCER) used for emergency escape in underground coal mining and on-board ships; and the airline (air hose) respirator used for industrial chemical and paint applications and hazardous materials management.

Of the U.S. respirator market of products approved by NIOSH, approximately 35 percent of approval holders are U.S. companies and 65 percent are foreign. The foreign component of this distribution has nearly doubled since 2000, and is largely represented by manufacturers producing low-cost filtering facepiece respirators. The North American respiratory protection market generated revenues around $1,830 million in 2007,

the most recent data available.[3] A summary of market segmentation, by respirator type, is offered in Table 1, below.

TABLE 1—INDUSTRY OVERVIEW

Respirator type	Market share 2007 (%)	Revenues 2007 (millions $)
Air-Purifying:		
Elastomeric	28.1	514.2
Particulate	21.1	386.1
Powered air purifying	7.0	115.3
Air-Supplying:		
SCBA (open- and closed-circuit)	35.2	677.1
CCER	2.8	31.1
airline	5.8	106.1

Source: Frost & Sullivan [2008]. North American Respiratory Protective Equipment Market. Report N2E7–39.

As discussed in the notice of proposed rulemaking, OMB Circular A–25 Revised requires that the NIOSH respirator program be self-sustaining, and that the Agency recover the full cost of certification and testing services offered to respirator manufacturers. With this final rule, HHS sets fees for these services based upon costs generated in a typical calendar year, 2009. The data and analyses discussed here were generated at the outset of the drafting of this final rule, and NIOSH believes there has been minimal inflation affecting the NIOSH costs in the years since. All of the fees incorporate direct and indirect costs of providing testing and approval services, including personnel costs, physical overhead, and management and supervisory costs. For the purposes of this final rule, an average hourly cost of $50 per hour (rounded figure from Table 2) was used as a reasonable estimate; in cases where there were special or unique costs (*e.g.* chemicals for testing, travel for site audits), those costs were accounted for over and above the hourly cost.

TABLE 2—HOURLY COSTS

	Salary/hour ($)	Benefits/hour ($)	Total ($)
Certification Staff	36.66	9.55	46.21
Management Overhead (OD) Prorated	3.96	1.12	5.08
Total	40.62	10.67	51.29

Fixed costs are approximately $500,000 per year. These are the costs required to ensure the continued availability of a testing laboratory and are reasonably independent of the number of respirators tested or reviewed at any given time. These costs are broken down in Table 3, below.

TABLE 3—FIXED COSTS

Facilities	
Total cost	$5,161,860.
Total square feet used by NIOSH	474,000.
Cost per square foot	$9.93.
Square feet used for certification and approval activities	23,480.
Annual cost for certification and approval activities	$233,156.
Test Equipment	
Total cost	$2,510,000.
Amortization period	10 years.
Annual cost of test equipment	$251,000.

The fee schedules that are the basis for the analysis below are broken down into annual (fixed) fees (including product performance maintenance [product audits], records maintenance, quality assurance maintenance [site audits], facility maintenance, and testing capacity maintenance [test equipment depreciation]), and approval-based fees (including application, approval, approval modification, and site qualification fees, as well as all

[3] Frost & Sullivan [2008]. North American Respiratory Protective Equipment Market. Report N2E7–39 at 1–1.

laboratory tests conducted on air-supplied and air-purifying respirators, and respirators certified for use against chemical, biological, radiological, and nuclear agents). HHS offers the following explanation for the fee structure established in this rulemaking:

Application: The application fee allows NIOSH to process the paperwork associated with a new application request. New applications were estimated at 4 hours of processing time with no other expenses. Thus, the new application processing fee is set at $200. In 2009, NIOSH processed 435 applications and would have received payments in the amount of $87,000.

Approval: A fee is charged for each new approval granted an applicant. Because the issuance of new approvals is estimated to require 2 hours each above the base application fee, the fee is set at $100. In 2009, NIOSH granted 700 approvals [4] and would have received payments in the amount of $70,000.

Approval Modification: An approval-holder may apply to NIOSH for the modification of an existing approval. Requests to obsolete a certificate of approval are considered to be modifications of an existing approval. Modified approval activities are estimated to require 1 hour each above the base application fee. Thus, the modification fee is set at $50. In 2009, NIOSH granted 820 modifications of approval [5] and would have received payments in the amount of $41,000.

Records Maintenance: The proposed fee schedule is changed to clarify that this fee applies to all active and obsolete, or listed, approvals. Each listed approval is estimated to require 1 hour of records maintenance time per year. The maintenance fee is set at $50. Manufacturers held a total of 6,800 current approvals (active and obsolete) in 2009 and would have remitted maintenance payments in the amount of $340,000.

Quality Assurance Maintenance (site audit): The quality assurance maintenance fee will cover the costs of the quality auditing program. As discussed above, the proposed fee schedule is amended in response to commenters who suggested that the site audit fee reflect the actual cost to perform each audit. Accordingly, the fee is changed from the proposal to base the fee on each active approval on file with NIOSH. The cost to NIOSH for conducting facility audits depends on many variables, including the number of manufacturing sites, the size of the manufacturing sites, the quality performance of the manufacturing sites, the location of the sites, and whether the respirators are used for mining. Therefore, a fixed fee for quality audits will be charged annually per every manufacturing site registered with NIOSH, which is set at $3,000 per every manufacturing site registered with NIOSH. Sites which do only design, but not production, are excluded from this fixed fee. In addition to the fixed annual fee, NIOSH will also bill for the average cost of a site audit based on audit duration and geographic location (domestic or foreign), during the same fiscal year in which the audit occurs. Sites which do only design, but not production, will be charged the variable fee during the same fiscal year in which the audit occurs.

The initial schedule for these variable fees is:

VARIABLE SITE AUDIT FEES

U.S. site	1-day audit	$ 2,500
U.S. site	2-day or longer audit	5,000
International site	1-day audit	7,500
International site	2-day or longer audit	10,000

In the draft ''Respirator Certification Fee Schedule A—Administrative Fees,'' included in the docket for the notice of proposed rulemaking published in March 2013, NIOSH proposed a site audit fee of $85 per approval, which would have generated $578,000 during the 2009 evaluation period. The billing structure established in this final rule results in the same recovery to NIOSH, for the 2009 basis period, as the original proposal.

REVISED BILLING STRUCTURE

	Fee	Total
Fixed site audit fee production sites		
101	$3,000	$303,000
Variable site audit fee audit sites		
7 U.S. sites	2,500	17,500
11 U.S. sites	5,000	55,000
15 non-U.S.	7,500	112,500
9 non-U.S.	10,000	90,000
Total recovery		578,000

Maintenance of Product Performance (product audit): The product performance maintenance fee will cover the costs of the product audit program. As discussed above, the proposed fee schedule is changed in response to public comments to charge each approval holder directly for the cost of product audits, rather than link the fee to modification requests. Product audits are conducted on approved respirators and these respirators are, typically, obtained through normal commercial purchases. One of the central factors in determining which respirators to purchase and test is whether significant modifications have been made from the original, approved design. Accordingly,

[4] Note: One application may result in multiple approvals, so it is not unusual for the number of new approvals to exceed the number of applications.

[5] Note: One application may result in multiple modifications of approval, so it is not unusual for the number of modifications of approval to exceed the number of applications.

a fee for product performance audits will be added to each modification of approval requested. The product performance maintenance fee is set at $761 per approval holder ($53,300 staffing/70 approval holders). The variable cost portion of the fee is designed to cover the cost of obtaining respirators and performing the testing. This cost will be billed directly to the approval holder in the October billing for testing to be performed within the next 12 months. In 2009, NIOSH conducted 42 product audits; the variable portion of the fee would have been $70,000.

Site qualification: The site qualification fee provides for a one-time inspection of new production facilities. As discussed above, the proposed fee schedule is changed in response to public comments to charge each approval holder directly for the cost of site qualification inspections. A flat fee is established for existing approval holders, who will undergo a paper review only: $400 per each request. Non-approval holders will be charged $2,500 for inspection of a domestic facility, and $7,500 for an international site visit. The fee for non-approval holders includes travel expenses for personnel (including travel to sites outside the United States) as well as hourly charges.[6] Each site qualification is estimated to take 4 hours of preparation time, 16 hours in travel time, 16 hours on-site, and 4 hours of document/report time for a total of $2000 in staff costs (40 hours × $50/hour). In 2009, NIOSH performed 12 paper reviews for existing approval holders (12 × 400 = 4,800), and 4 domestic (4 × 2,500 = 10,000) and 2 foreign (2 × 7,500 = 15,000) site qualification audits, which would have resulted in payments in the amount of $30,000.

Maintenance of Testing and Approval Facilities: The facility maintenance fee will cover the costs of the respirator certification facilities located at the HHS-owned site in Pittsburgh, Pennsylvania. The costs for utilities, security, maintenance, maintenance equipment, maintenance staff and facilities management staff are included in this fee. The proposed fee schedule is changed to clarify that this fee applies to all active and obsolete, or listed, approvals. Facility maintenance is considered to be a fixed cost and independent of the certification activity in any given year. Accordingly, this fee will be assessed annually per listed approval. In 2009, the facility operating costs specific to respirator certification were $233,156 and manufacturers held 6,800 current approvals (active and obsolete). A fee of $34.00 per approval would have returned $231,200 to the program.

Maintenance of Test Equipment: The testing capacity maintenance fee is designed to recover the depreciation of testing equipment used for respirator certification. Equipment depreciation is typically considered to be a fixed cost and, therefore, NIOSH has classified it as an administrative (maintenance) fee. In accordance with the comments discussed above, the proposed fee schedule is changed to clarify that this fee applies to all active, and not obsolete, approvals. The fee itself is unchanged because the number of obsolete approvals included in the calculation of the proposed fee was insignificant. The testing capacity maintenance fee will be assessed annually per active approval. In 2009, the total cost of all certification equipment was $2,510,000. A 10 year amortization schedule is consistent with the life expectancy used in the purchasing of this equipment; therefore the annual depreciation of testing equipment is $251,000. In 2009, manufacturers held 6,800 approvals. A fee of $36.00 per each active approval would have returned $244,800 to the program.

Testing: The fees for each individual test are specified in Fee Schedule B. The testing fees include the cost of materials and equipment as well as hourly wages. Testing fees are established by analyzing the time, equipment, chemicals and supplies required for each individual test. The actual tests performed by NIOSH in 2009 generated estimated fees of $717,000 for that year. Unlike other fees charged by NIOSH, fees for testing respirators against chemical, biological, radiological, and nuclear (CBRN) agents have been recently generated and are currently billed according to the actual cost of testing performed by either U.S. military laboratories or by the NIOSH National Personal Protective Technology Laboratory. Accordingly, manufacturers should refer to the U.S. Army Research, Development and Engineering Command Edgewood Chemical Biological Center (ECBC) Web site at *http://www.ecbc.army.mil/* for a list of current testing costs. Costs for tests listed in Fee Schedule B and identified by the symbol ''#'' may not be reflective of current prices charged by ECBC. In 2009, NIOSH performed three CBRN tests and received payments in the amount of $150,000. These CBRN fees have been excluded from Table 4.

In order to use the existing accounting system, the fees have also been grouped into three categories—administrative/evaluation, testing, and audit activities—as summarized in Table 4, below.

TABLE 4—VARIABLE FEE RECOVERY ESTIMATES

Administrative/Evaluation Activities	
2009 Budget	$775,000.
Percentage of activities related to billable fees	75%.
Fees target	$581,000.
Estimated recovery under revised regulation:	
Applications	$87,000.
New approvals	$70,000.
Modifications	$41,000.
Maintenance fee, records	$340,000.
Site qualification	$30,000.
Total fees	$568,000.
Percent recovery	97.1%*
Testing Activities **	
2009 Budget	$840,000.

[6] NIOSH typically employs contractors to conduct site audits, at an average cost of $100 per hour.

TABLE 4—VARIABLE FEE RECOVERY ESTIMATES—Continued

Percentage of activities related to billable fees	85%.
Fees target	$714,000.
Estimated recovery under revised regulation:	
Testing fees	$717,000.
Total fees	$717,000.
Percent recovery	100%.
Audit Activities	
2009 Budget	$708,000.
Percentage of activities related to billable fees	100%.
Fees target	$708,000.
Estimated recovery under revised regulation:	
Product audit fees	$123,000.
Site audit fees	$578,000.
Total audit fees	$701,000.
Percent Recovery	99.0%.

* Given the level of variation in submissions from year to year, projections of 90–100% are considered to be full recovery.
** CBRN fees have been excluded.

In Table 4, above, the administrative/evaluation category includes most of the NPPTL Technology Evaluation Branch overhead in addition to the certification activities. HHS estimates that 75 percent of this category provided services that were directly related to billable certification activities. The testing category targets maintenance of certification equipment, laboratory supplies, and testing. HHS estimates that 85 percent of this category provides services directly related to billable certification testing activities. The audit category includes both the site audit and product audit activities. HHS estimates that 100 percent of this category provides services directly related to billable audit activities.

TABLE 5—FIXED FEE RECOVERY ESTIMATES

Facility maintenance		Test equipment depreciation	
2009 Actual Cost	$233,156	2009 Depreciation	$251,000.
New Fee	$231,200	New Fee	$249,600.
Percent Recovery	99.2%	Percent Recovery	99.4%.

The fixed fee categories are recoverable operating expenses of the respirator certification activity. However, they have not historically been part of the NIOSH National Personal Protective Technology Laboratory budget process and, therefore, they are broken out here separately. The facilities maintenance costs have been appropriated through NIOSH appropriation requests. Equipment replacement has been handled as either (a) a special one-time request related to special circumstances or special needs; or (b) as a distribution from retained user fees provided by manufacturers for certification activities.

This final rule is designed to recover the costs associated with providing services for the examination, inspection, and testing of respirators for the purposes of issuing, modifying, and maintaining certificates of approval. The current annual cost for this program is $2,500,000. NIOSH currently recovers approximately 10 to 20 percent of these costs under an outdated fee schedule that has remained in effect since 1972. NIOSH estimates that the total additional cost of this rulemaking to the 70 manufacturers of NIOSH-approved respirators would be between $2,000,000 and $2,500,000 annually, approximately 0.125 percent of the almost $2 billion industry, and less than 2.5 percent of the $100 million significance threshold.

The final rule will not interfere with state, local, and tribal governments in the exercise of their governmental functions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations. HHS certifies this rule under the RFA, but prepared an Initial Regulatory Flexibility Analysis in order to solicit feedback regarding the impact of this rulemaking on revenues of small entities.

This rule updates the user fee structure for the certification of respiratory protective devices. The current fee structure, in place since 1972, has limited the Agency's ability to recover the majority of costs for respirator testing and certification. The current fee structure charges a set fee for the examination, inspection, and testing of eight broad groups of respirators. A single fixed fee is specified for each type of respirator without regard to the complexity of the respirator or the number of specific tests which are required. For example, the examination, inspection, and testing of a self-contained breathing apparatus for entry and escape, 1 hour or more costs $3,500; for a single hazard gas mask, the cost is $1,100; a supplied-air respirator will cost $750 for examination, inspection, and testing (42 CFR 84.20). As a result, NIOSH currently recovers only about 10 to 20 percent of the costs to provide initial certification and testing activities.

The OMB Circular requires that the NIOSH respirator certification program be self-sustaining, and that the Agency recover the full cost of certification, maintenance and testing (see Section II.C. in the notice of proposed rulemaking published on March 27, 2013 (78 FR 18535)). NIOSH's objective is to recover all of these costs. The fee

schedules include fees for each individual test required to grant a new approval or modification of an approval; processing the paperwork associated with any application request; granting a new approval or modifying an existing approval; maintaining each approval held during the year; and inspecting new production facilities.

This final rule applies only to those companies that hold NIOSH approvals for certified respirators, or wish to apply for such approvals. It does not duplicate, overlap, or conflict with other rules.

There are 70 respirator manufacturers that hold NIOSH approvals. Of this group, 10 manufacturers are considered large companies; 35 are approval-holders based outside of the United States; and 25 are classified as small businesses as defined under the Small Business Act for this industry sector (NAICS 339113—Surgical Appliance and Supplies Manufacturing), employing fewer than 500 employees. Accordingly, HHS has given consideration to the potential impact of this rule on these 25 companies.

HHS must establish whether the final rule has a significant economic impact on a substantial number of small businesses. According to HHS guidance, 5 percent or more of affected small businesses within an industry is considered a substantial number of businesses; an average annual impact on small businesses of 3–5 percent or more is considered a significant economic impact. Given that 25 of 70 regulated companies that comprise the respirator industry are small businesses, HHS considers a significant number to be affected by this final regulation. Many of these small companies are privately owned and, therefore, do not release public financial statements. However, as discussed below, the final rule does not exceed the HHS threshold for economic significance. For the purposes of this analysis, HHS has further categorized the small companies into three groups, as presented in Table 6 below.

TABLE 6—COMPANIES GROUPED BASED ON SIZE

Group ID	Group type	Number of employees	Number of companies
Group 1	Small	<50	10
Group 2	Small	51–250	8
Group 3	Small	251–500	7
Group 4	Large	>500	10

In order to predict the effects of the new fee structure, the existing fees submitted to NIOSH for approval activities were examined for the years 2005 through 2009 inclusive. This 5-year period was considered to be representative of typical approval activities. The recent past is the best model that NIOSH has to predict likely application behavior in the near future.[7]

The current fee structure specifies a single fee for each type of respirator approval. This type of fee structure tends to favor those companies that demand extensive services and disadvantage companies that have fairly simple, easily executed requests. In order to better balance actual fees charged with actual services requested, the fees have been reallocated to be proportionate to the extent of services required.

HHS is committed to ensuring that the regulatory burden does not disproportionately impact small businesses. Accordingly, the fee structure takes into account the complexity of the testing required to approve a respirator model. Typically, small companies have simple approval requests with few testing requirements. By designing a fee structure which would charge for the actual testing performed and individual fees which would be based on the number of active and obsolete approvals held, small companies would not pay for potential services that they do not use. Likewise, small companies typically have a limited number of listed approvals, so maintenance fees based on the number of listed approvals would minimize the fees charged to small companies versus large companies. Simply increasing the fees under the existing fee structure would impose a competitive disadvantage on small companies, because any fixed increase in fees would represent a greater percentage of revenue for small companies than for large companies. This is particularly relevant for the respirator manufacturers since the smallest companies have 1–10 employees while the largest significantly exceed 1,000 employees.

Tables 7, 8, and 9, below, address the costs for existing approval holders. The site qualification fee has not been incorporated into those figures.

TABLE 7—CURRENT STATISTICS FOR APPROVAL HOLDERS

	Group 1	Group 2	Group 3	Group 4
Avg. number listed approvals held per company	3	30	31	566
Avg. new approval applications per year per company	0.6	0.8	1.8	3.5
Avg. number modification applications per year per company	0.4	0.9	2.6	6.6
Avg. fees paid per year per company ($)	850	2,050	4,150	8,100
Total fees for 2005–2009 ($)	42,200	81,820	145,450	403,965

[7] Fees for the certification of respirators that provide protection from chemical, biological, radiological, and nuclear (CBRN) agents processed during the 2005–2009 time period were not included in the comparison for the following reasons: Only one small company holds any current CBRN approvals; CBRN approvals tend to be very expensive (~$100,000) and would skew all of the statistics; CBRN fees were set fairly recently (2002) and are based on actual testing costs; and CBRN fees will not change significantly as a result of this rulemaking.

TABLE 8—STATISTICS FOR APPROVAL HOLDERS IF NEW FEES HAD BEEN IN PLACE DURING 2005–2009

[$]

Average cost per company per year	Group 1	Group 2	Group 3	Group 4
Testing fees	1,400	2,730	10,600	15,680
New approvals	185	255	575	2,490
Modified approvals	95	225	525	1,740
Records maintenance	150	1,500	1,570	28,310
Product audits	60	135	390	990
Site audits	255	2,550	2,640	48,100
Facilities maintenance fee	100	990	1,020	18,680
Test equipment depreciation	95	960	990	18,110
Total fees	2,340	9,345	18,310	134,100

TABLE 9—COMPARISON OF CURRENT AND NEW FEES

	Group 1	Group 2	Group 3	Group 4
Avg. current fees per year per company ($)	850	2,050	4,150	8,100
Avg. new fees per year per company ($)	2,340	9,345	18,310	134,100
Avg. increase in cost per company ($)	1,490	7,295	14,160	126,000
Avg. percentage increase per company (%)	175	356	341	1,556
Percentage of current fees paid per group (%)	6	12	22	60
Percentage of new fees paid per group (%)	1.5	5	8	85.5

A site qualification fee will likely be triggered very infrequently. The types of events that will trigger a site audit include: The company becomes an approval holder for the first time (Event 1); the approval holder moves to or adds a new production site (Event 2); or the approval holder is sold and production moves to a new site (Event 3). The site qualification fee (covering costs for inspection of either a domestic or foreign manufacturing site) will apply to all new approval holders, since their facilities will not have been previously qualified. NIOSH does not believe that this fee represents a significant entry cost, in relation to the costs required to newly manufacture NIOSH-certified respirators. In any event, these do not represent new costs imposed on existing small businesses in respirator manufacturing impacted by this rulemaking.

For both small and large companies, the most common reason that a site qualification fee will be required is Event 2. That is, a company either adds a new production site or moves the existing production site to a new facility. The cost of qualifying a new production site will be very small ($400) compared to the costs of acquiring, designing, staffing, and beginning production at a new site.

Small companies often experience type 3 events. They are often sold and then relocated by the acquiring company. Again, the cost of qualifying a production site will be very small compared to the cost of buying a company and relocating it.

As discussed above, financial information from the small respirator manufacturers is difficult to discover, as many of these companies are privately held and are not required to file public financial statements. The only component of total revenues that is publically available is salary data. Attempts to determine the other production costs and/or the levels of profits for these companies did not generate reliable or consistent data. In order to estimate the revenues of these companies, statistics from the 2007 Economic Census for NAICS code 339113 were used. As a base for the revenues, it was assumed that the company needed, at a minimum, to cover the cost of its staff. Staffing levels were placed at the smallest likely levels for each size group.

As can be seen in Table 10, below, even using the limited estimator of salaries as a surrogate for total revenues, the cost of the final rule does not, on average, reach the HHS threshold of more than 3 percent of revenues for the final rule to be considered significant for any of the groups of companies.

TABLE 10—ECONOMIC IMPACT: FEES AS PERCENTAGE OF REVENUE

	Group 1	Group 2	Group 3
Number of employees	1–50	51–250	251–500.
Econ. Census Table	5–9 employees	50–99 employees	250–499 employees.
Management salary/year	$70,000	$64,200	$72,800.
Production wages/year	$31,000	$30,400	$41,900.
Management percent of employees	35.7%	35.2%	36.5%.
Number of management staff/number of production employees.	½ (3 total)	18/33 (51 total)	92/159 (251 total).
Total salaries/company	$132,000	$2,160,000	$13,400,000.
Total new fees (ref. Tables 7 and 9)	$2,940	$9,595	$18,740.
Fees as percentage of revenues	2.2	0.44	0.14.

However, because the usage of NIOSH services varies markedly from company to company, and even from year to year for any specific company, it is difficult to determine whether or not the final rule could, sporadically, have a significant impact on individual companies. Although we requested input from the regulated manufacturers on the accuracy of our estimates and asked that they provide data regarding the economic impact of this rule, HHS did not receive any public comments on this matter.

The RFA requires that the initial regulatory flexibility analysis describe significant alternatives to this final rule. HHS has identified two alternatives in addition to the final rule, which increases respirator fees on a test-by-test basis: (1) Retain the current fee and fee structure; or (2) increase the fees themselves.

Alternative 1: Retain the Current Fees and Fee Structure

HHS could have continued to use the current fees and fee structure. However, those fees have been in effect since 1972 and return only 10 to 20 percent of the annual costs associated with providing initial certification and testing activities. This does not meet the cost needs of the NIOSH certification and testing programs, and does not meet the specifications of the OMB Circular which requires NIOSH to recover all of these costs. Hence, HHS chose not to pursue this alternative.

Alternative 2: Retain the Current Fee Structure and Increase the Fees

HHS could have maintained the current fee structure but increased the fees to cover current NIOSH costs. Typically, small companies have simple approval requests with few testing requirements. Likewise, small companies typically have a limited number of existing approvals requiring certification maintenance activities by NIOSH (see Table 6, above). The current fee structure distributes the cost burden equally across applicants despite the higher level of service provided to large companies with higher numbers of applications and approvals. The effect of the current fee structure is that small companies receive fewer tests and maintain fewer approvals for the same fixed application fee than do the large companies. This puts small companies at a disadvantage. HHS chose not to pursue this alternative.

Final Rule: Modify Both the Fees and the Fee Structure To Reflect Actual Usage of NIOSH Services

As established in this final rule, HHS chose to break up the fees into assignable services which reflect actual testing, certification and maintenance costs for respirator approvals. These fees are discussed in detail above and include fees for: (1) Testing; (2) application requests; (3) approvals; (4) modifications; (5) maintenance; and (6) site qualification. This alternative increases fees to all business groups, but does so in a graduated way which minimizes the burden on the small companies. Projected fees increase by 175 percent, 355 percent and 340 percent, respectively, for the smallest to largest groups of small companies. Projected fees increase by 1560 percent for the group of large companies. The final rule also allows NIOSH to fully recover its costs associated with respirator testing and certification, as required by the OMB Circular. Therefore, HHS has chosen to pursue this alternative.

Based on the analysis provided above, HHS believes that this final rule will not have a significant economic impact on a substantial number of small businesses.

C. Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* requires an agency to invite public comment on and to obtain OMB approval of any regulation that requires 10 or more people to report information to the agency or to keep certain records.

NIOSH has obtained approval from OMB to collect information from respirator manufacturers under ''Information Collection Provisions in 42 CFR part 84—Tests and Requirements for Certification and Approval of Respiratory Protective Devices'' (OMB Control No. 0920–0109, exp. November 30, 2017), which covers all information collected under 42 CFR part 84. The information NIOSH will collect under this rule does not differ substantially from the information presently collected from respirator manufacturers who obtain NIOSH certification of their products; nor will there be an increase in the reporting burden on respirator manufacturers.

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), HHS will report to Congress the promulgation of a final rule, prior to its taking effect. The report will state that HHS has concluded that the rule is not a ''major rule'' because it is not likely to result in an annual effect on the economy of $100 million or more.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this final rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by state, local or tribal governments in the aggregate, or by the private sector, adjusted annually for inflation. For 2014, the inflation-adjusted threshold is $152 million.

F. Executive Order 12988 (Civil Justice)

This final rule has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform and will not unduly burden the federal court system. NIOSH has provided a fee structure that will apply uniformly to all applicants. This final rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

HHS has reviewed this final rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The final rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this final rule on children. HHS has determined that the final rule will have no effect on children.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this final rule on energy supply, distribution, or use because it applies to

the underground coal mining sector since coal mine operators are consumers of respirators. The final rule is unlikely to affect the cost of respirators used in coal mines and hence is not likely to have ''a significant adverse effect on the supply, distribution, or use of energy.'' Accordingly, this final rule does not constitute a ''significant energy action'' under E.O. 13211 and requires no further Agency action or analysis.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the final rule consistent with the Federal Plain Writing Act guidelines.

Final Rule

List of Subjects in 42 CFR Part 84

Fees, Mine safety and health, Occupational safety and health, Personal protective equipment, Respirators.

For the reasons discussed in the preamble, the Department of Health and Human Services amends 42 CFR part 84 as follows:

PART 84—APPROVAL OF RESPIRATORY PROTECTIVE DEVICES

■ 1. The authority citation for part 84 is revised to read as follows:

Authority: 29 U.S.C. 651 *et seq.;* 30 U.S.C. 3, 5, 7, 811, 842(h), 844; 31 U.S.C. 9701.

Subpart A—General Provisions

■ 2. In § 84.2, remove the alphabetical paragraph designations, arrange definitions in alphabetical order, remove the definitions of ''Certification and Quality Assurance Branch'' and ''Institute'', and add in alphabetical order definitions for ''Institute or NIOSH'' and ''National Personal Protective Technology Laboratory'' to read as follows:

§ 84.2 Definitions.

* * * * *

Institute or NIOSH means the National Institute for Occupational Safety and Health, Department of Health and Human Services.

* * * * *

National Personal Protective Technology Laboratory (NPPTL) means the National Personal Protective Technology Laboratory, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236. NPPTL administers the NIOSH conformity assessment program for respiratory protective devices, replacing the former Certification and Quality Assurance Branch within the Division of Safety Research, Appalachian Laboratory for Occupational Safety and Health, NIOSH.

* * * * *

Subpart B—Application for Approval

■ 3. In § 84.10, revise paragraphs (b), (c), and (d) to read as follows:

§ 84.10 Application procedures.

* * * * *

(b) Applications must be submitted in accordance with the *Standard Application Procedure for the Certification of Respirators under 42 CFR 84,* (*Standard Application Procedure*) available on the NPPTL Web site, to Records Room, National Personal Protective Technology Laboratory, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236.

(c) Except as provided in § 84.64, the examination, inspection, and testing of all respirators will be conducted or caused to be conducted by the National Personal Protective Technology Laboratory.

(d) Applicants, manufacturers, or their representatives may visit or communicate with the National Personal Protective Technology Laboratory in order to discuss the requirements for approval of any respirator or the proposed designs thereof. No charge will be made for such consultation and no written report will be issued to applicants, manufacturers, or their representatives by the Institute as a result of such consultation.

* * * * *

■ 4. In § 84.12, revise paragraph (b) to read as follows:

§ 84.12 Delivery of respirators and components by applicant; requirements.

* * * * *

(b) The applicant will deliver, at his or her own expense, the number of completely assembled respirators and component parts required for their examination, inspection, and testing, to the National Personal Protective Technology Laboratory.

* * * * *

■ 5. Revise subpart C to read as follows:

Subpart C—Fees

Sec.

84.20 Establishment of fees.
84.21 Fee calculation.
84.22 Fee administration.
84.23 Fee revision.
84.24 Authorization for additional examinations, inspections, tests, and fees.

Subpart C—Fees

§ 84.20 Establishment of fees.

(a) This section establishes a system under which NIOSH charges a fee for services provided to applicants for conformity assessment activities conducted by NIOSH for respiratory protective devices under 42 CFR part 84. This section specifies the purposes for which fees will be assessed and the cost factors for such assessments.

(b) Fees will be charged for:

(1) *Respirator certification application, approval, approval modification, records maintenance, and testing.* Application processing under this Part by engineers, technicians and other specialists, including administrative review of applications, analysis of drawings, technical evaluation, testing, test set up and tear down, and consultation on applications, clerical services, computer tracking and status reporting, records control and security, and document preparation directly supporting application processing. This fee also contributes to a proportionate share of management, administration and operation of the NIOSH National Personal Protective Technology Laboratory;

(2) *Maintenance of testing and approval facilities and test equipment.* Amortization of facility improvements and depreciation of buildings and equipment used for testing and evaluation or otherwise directly associated with application processing;

(3) *Site qualification.* Initial review and approval, as specified under 42 CFR part 84 subpart E—Quality Control, of manufacturing facilities that may be used to manufacture respirators, principal components, and/or subassemblies;

(4) *Quality assurance maintenance.* Quality site audits to verify conformance to the requirements of §§ 84.33, 84.40, 84.41, 84.42, 84.43; and

(5) *Maintenance of product performance.* Product audits to verify the performance of commercially available respirators which have been granted a NIOSH certificate of approval.

(c) Fees will not be charged for:

(1) Technical assistance not related to application processing;

(2) Technical programs including development of new technology programs;

(3) Participation in research; and

(4) Regulatory review activities, including participation in the development of health and safety standards, regulations, and legislation.

§ 84.21 Fee calculation.

(a) This section explains the process NIOSH uses to calculate estimates of the direct and indirect costs of services provided in the course of application processing.

(b) Upon completion of an initial administrative review of the application, NIOSH will calculate a fee estimate for each application, including the maximum cost of conducting additional tests under § 84.24, and will provide that estimate, with payment details, to the applicant. The fee estimate will be derived using the current schedules of fees published by NIOSH in Part 84. NIOSH will begin the technical evaluation once the applicant accepts the terms of the fee estimate and authorizes payment.

(c) If NIOSH determines that actual costs for application processing and related testing will exceed the fee estimate provided to the applicant, NIOSH will provide a revised fee estimate for completing the application review before exceeding the previously-authorized fees. The applicant will have the option of either withdrawing the application and paying for services already performed or authorizing payment of the revised estimate, in which case NIOSH will continue the application review and testing.

(d) If the actual cost of processing the application is less than the fee estimate NIOSH provided to the applicant, NIOSH will charge the actual cost.

(e) If the applicant withdraws an application, the applicant will be invoiced for services already performed by NIOSH. Withdrawal of an application will be effective on the first business day following the date NIOSH receives a withdrawal notice from the applicant in writing. Withdrawal notices will be submitted to NIOSH in accordance with the *Standard Application Procedure* using the address specified in § 84.10.

§ 84.22 Fee administration.

(a) Applicants will be invoiced for all fees incurred in the processing of an application when all required reviews, analyses, evaluations, and tests are completed or the application is withdrawn. Invoices will contain specific payment instructions and identify authorized methods of payment.

(b) Applicants who hold active and/or obsolete certificates of approval will be invoiced by NIOSH annually for applicable maintenance fees, in accordance with the fee schedule published in Appendix A of this part.

(c) NIOSH reserves the right to impose sanctions for any missed payment, and will administer such penalties after assessing the circumstances of the manufacturer and the needs of other stakeholders. Sanctions may include but are not limited to:

(1) Refusal to accept future applications for approval;

(2) Stop-sale of all approved product; and

(3) Engaging appropriate government authorities to initiate debt collection procedures for the unpaid fees.

§ 84.23 Fee revision.

(a) Each fee schedule will remain in effect for at least 2 years and will be revised as needed to reflect cost increases identified in biennial reviews.

(b) Fee schedule updates will be proposed in a notice of proposed rulemaking published in the **Federal Register**.

(c) The current fee schedules will be published in Appendix A and Appendix B of this part and will remain in effect until the effective date of the new fee schedules published in the **Federal Register**.

§ 84.24 Authorization for additional examinations, inspections, tests, and fees.

NIOSH will conduct or cause to be conducted any additional examinations, inspections, or tests it deems necessary to determine the quality and effectiveness of any respirator submitted to NIOSH for the purposes of seeking a certificate of approval. The costs of such examinations, inspections, or tests will be paid by the applicant prior to issuance of a certificate of approval for the subject respirator.

Subpart D—Approval and Disapproval

§ 84.36 [Amended]

■ 6. In § 84.36, remove ''Certification and Quality Assurance Branch'' and add in its place ''National Personal Protective Technology Laboratory''.

Subpart E—Quality Control

§§ 84.41 and 84.43 [Amended]

■ 7. In Subpart E, remove ''Certification and Quality Assurance Branch, 1095 Willowdale Road, Morgantown, WV 26505–2888'' and add in its place ''National Personal Protective Technology Laboratory, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236'' wherever it appears in the following places:

■ a. § 84.41(b); and

■ b. § 84.43(a)

Subpart G—General Construction and Performance Requirements

■ 8. In § 84.66, revise the section heading and paragraph (b) to read as follows:

§ 84.66 Withdrawal of applications.

* * * * *

(b) Upon the receipt of a written request from the applicant for the withdrawal of an application, NIOSH will invoice the applicant based on the fee calculated, as specified under § 84.21(e).

Subpart H—Self-Contained Breathing Apparatus

§§ 84.76, 84.79, 84.81, and 84.97 [Amended]

■ 9. In Subpart H, remove ''Certification and Quality Assurance Branch, 1095 Willowdale Road, Morgantown, WV 26505–2888'' and add in its place ''National Personal Protective Technology Laboratory, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236'' in the following places:

■ a. § 84.76(b)

■ b. § 84.79(c) and (d)

■ c. § 84.81(d)

■ d. § 84.97(a)

Subpart I—Gas Masks

§ 84.110 [Amended]

■ 10. In § 84.110(c), remove ''Certification and Quality Assurance Branch'' and add in its place ''National Personal Protective Technology Laboratory''.

§§ 84.113 and 84.119 [Amended]

■ 11. Remove ''Certification and Quality Assurance Branch, 1095 Willowdale Road, Morgantown, WV 26505–2888'' and add in its place ''National Personal Protective Technology Laboratory, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236'' in the following places:

■ a. § 84.113

■ b. § 84.119(b)

Subpart J—Supplied-Air Respirators

§§ 84.136 and 84.141 [Amended]

■ 12. In Subpart J, remove ''Certification and Quality Assurance Branch, 1095 Willowdale Road, Morgantown, WV 26505–2888'' and add in its place ''National Personal Protective Technology Laboratory, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236'' in the following places:

■ a. § 84.136(b)

■ b. § 84.141(b) and (c)

Subpart L—Chemical Cartridge Respirators

§ 84.193 [Amended]

■ 13. In § 84.193, remove ''Certification and Quality Assurance Branch, 1095 Willowdale Road, Morgantown, WV 26505–2888'' and add in its place ''National Personal Protective Technology Laboratory, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236''.

Subpart N—Special Use Respirators

§ 84.258 [Removed]

■ 14. Remove § 84.258.

Subpart KK—Dust, Fume, and Mist; Pesticide; Paint Spray; Powered Air-Purifying High Efficiency Respirators and Combination Gas Masks

§ 84.1102 [Removed]

■ 15. Remove § 84.1102.

§§ 84.1136, 84.1154 and 84.1157 [Amended]

■ 16. Remove ''Certification and Quality Assurance Branch, 1095 Willowdale Road, Morgantown, WV 26505–2888'' and add in its place ''National Personal Protective Technology Laboratory, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236'' in the following places:

■ a. § 84.1136(b)

■ b. § 84.1154(b)

■ c. § 84.1157(d)(5) and (e)(5)

■ 17. Add Appendix A to Part 84 to read as follows:

Appendix A to Part 84—Annual (Fixed) Respirator Certification Fees

RESPIRATOR CERTIFICATION FEE SCHEDULE A—ANNUAL (FIXED) FEES

[Implemented on May 26, 2015]

Fee type	Legal citation	Amount	Due date
Maintenance of Product Performance (product audit).	42 CFR 84.20(b)(5)	• Annual fee: $761 per each approval holder • Variable fee: As billed by NIOSH based on the respirators chosen to be tested each year.	• Upon billing from NIOSH.[1] • October.
Records Maintenance	42 CFR 84.20(b)(1)	$50 for all listed[2] approvals on file with NIOSH on July 1st of each year.	• Upon billing from NIOSH.[1] • October (beginning in 2015).
Quality Assurance Maintenance (site audit).	42 CFR 84.20(b)(4)	• Annual fee: $3,000 per every manufacturing site registered with NIOSH. • Variable fee:[3] ▪ 1 day domestic audit—$2,500 per site ▪ 2 day domestic audit—$5,000 per site ▪ 1 day international audit—$7,500 per site. ▪ 2 day international audit—$10,000 per site.	• Upon billing from NIOSH.[1] • October (beginning in 2015).
Maintenance of Testing and Approval Facilities.	42 CFR 84.20(b)(2)	$34 per every listed[2] approval on file with NIOSH on July 1st of each applicable year.	• Upon billing from NIOSH.[1] • October (beginning in 2015).
Maintenance of Test Equipment.	42 CFR 84.20(b)(2)	$36 per every active[4] approval on file with NIOSH on July 1st of each applicable year.	• Upon billing from NIOSH.[1] • October (beginning in 2015).

[1] For the first year that annual fees are in effect, NIOSH will provide manufacturers with a pre-invoice/advanced billing/invoice preview no later than July 1, 2015. The actual invoice will be sent in September 2015.

[2] ''Listed'' approvals include all active and obsolete approvals. The Certified Equipment List (CEL) reflects the current listed approvals maintained by NIOSH. See *http://www.cdc.gov/niosh/npptl/topics/respirators/CEL/default.html.*

[3] Applies to design as well as manufacturing sites.

[4] Does not include obsolete approvals.

■ 18. Add Appendix B to Part 84 to read as follows:

Appendix B to Part 84—Application-Based Respirator Certification Fees

RESPIRATOR CERTIFICATION FEE SCHEDULE B—APPLICATION-BASED FEES

[Implemented on May 26, 2015]

Fee type	Legal citation	Amount	Due date
Application	42 CFR 84.20(b)(1)	$200 per application submitted	Upon receipt of any application request.
Approval	42 CFR 84.20(b)(1)	$100 per each certificate of approval issued	Upon completion of the application and granting of an approval number.
Approval Modification	42 CFR 84.20(b)(1)	$50 per each certificate of approval modified	Upon completion of the application and issuing a modified approval.
Site Qualification	42 CFR 84.20(b)(3)	• Existing approval holder, paper review: $400 per each request to inspect new production facility. • Non-approval holders: ▪ Domestic site visit—$2,500 ▪ International site visit—$7,500	Upon agreement on the date of the site qualification examination.

Standard Test Procedure	Fee ($)
Testing Fees	
Descriptor:	For testing respirators.
Amount:	See below.
Basis:	Per each test.
Due date:	Upon initiation of testing.
Air-Purifying Respirators	
TEB–APR–STP–0001 Determination of particulate filter penetration (PAPR)	150
RCT–APR–STP–0003—Determination of exhalation resistance	150
TEB–APR–STP–0004—Determination of exhalation valve leakage	300
TEB–APR–STP–0005—Determination of qualitative isoamyl acetate (IAA) facepiece fit test	1,800
TEB–APR–STP–0005A—Determination of qualitative isoamyl acetate (IAA) facepiece fit test	1,800
TEB–APR–STP–0006—Determination of qualitative isoamyl acetate (IAA) facepiece fit test	1,800
TEB–APR–STP–0007—Determination of inhalation resistance	150
RCT–APR–STP–0012—Determination of air flow for powered air-purifying respirators	150
RCT–APR–STP–0014—Determination of leakage of drinking tube and accessories for respirator facepieces	300
RCT–APR–STP–0025—Determination of silica dust loading test for powered air-purifying respirator filters	1,200
RCT–APR–STP–0030—Determination of noise level test, powered air-purifying respirator with hoods or helmets	450
TEB–APR–STP–0033A—Determination of ammonia service-life test, air-purifying respirators with cartridges	750
TEB–APR–STP–0033B—Determination of ammonia service-life test, air-purifying respirators with canisters	750
TEB–APR–STP–0033C—Determination of ammonia service-life test, powered air-purifying respirators with cartridges	750
TEB–APR–STP–0033D—Determination of ammonia service-life test, tight-fitting powered air-purifying respirators with gas mask canister(s).	750
RCT–APR–STP–0034—Carbon monoxide service life	750
RCT–APR–STP–0035—Determination of chlorine service life	750
RCT–APR–STP–0036—Determination of chlorine dioxide service life	750
RCT–APR–STP–0037—Determination of a-chloroacetophenone (CN) service life	2,400
RCT–APR–STP–0038—Determination of ethylene oxide service life	450
TEB–APR–STP–0039A—Determination of formaldehyde service-life test, air-purifying respirators with cartridges	750
TEB–APR–STP–0039B—Determination of formaldehyde service-life test, air-purifying respirators with canisters	750
TEB–APR–STP–0039C—Determination of formaldehyde service-life test, powered air-purifying respirators with cartridges	750
RCT–APR–STP–0040—Determination of hydrogen chloride service life	500
RCT–APR–STP–0041—Determination of hydrogen cyanide service life	1,800
RCT–APR–STP–0042—Determination of hydrogen fluoride service life	750
TEB–APR–STP–0043A—Determination of hydrogen sulfide service-life test, air-purifying respirators with cartridges	750
TEB–APR–STP–0043B—Determination of hydrogen sulfide service-life test, air-purifying respirators with canisters	750
TEB–APR–STP–0043C—Determination of hydrogen sulfide service-life test, powered air-purifying respirators with cartridges	750
RCT–APR–STP–0044—Determination of mercury vapor service life	2,400
TEB–APR–STP–0045A—Determination of methylamine service-life test, air-purifying respirators with cartridges	450
TEB–APR–STP–0045B—Determination of methylamine service-life test, air-purifying respirators with canisters	450
TEB–APR–STP–0045C—Determination of methylamine service-life test, powered air-purifying respirators with cartridges	450
TEB–APR–STP–0045D—Determination of methylamine service-life test, tight-fitting powered air-purifying respirators with gas mask canister(s).	450
TEB–APR–STP–0046A—Determination of organic vapor (carbon tetrachloride) service-life test, air-purifying respirators with cartridges.	450
TEB–APR–STP–0046B—Determination of organic vapor (carbon tetrachloride) service-life test, air-purifying respirators with cartridges.	450
TEB–APR–STP–0046C—Determination of organic vapor (carbon tetrachloride) service-life test, powered air-purifying respirators with cartridges.	450
TEB–APR–STP–0046D—Determination of organic vapor (carbon tetrachloride) service-life test, tight-fitting powered air-purifying respirators with gas mask canister(s).	450
RCT–APR–STP–0047—Determination of phosphine service life	750
TEB–APR–STP–0048A—Determination of sulfur dioxide service-life test, air-purifying respirators with cartridges	450
TEB–APR–STP–0048B—Determination of sulfur dioxide service-life test, air-purifying respirators with canisters	450
TEB–APR–STP–0048C—Determination of sulfur dioxide service-life test, powered air-purifying respirators with cartridges	450
TEB–APR–STP–0048D—Determination of sulfur dioxide service-life test, tight-fitting powered air-purifying respirators with gas mask canisters.	450
RCT–APR–STP–0050—Determination of O-chlorobenzylidene malononitrile (CS) service life	2,400
TEB–APR–STP–0051—Determination of particulate filter efficiency level for P100 series filters against liquid particulates for non-powered, air-purifying respirators.	1,200
TEB–APR–STP–0052—Determination of particulate filter efficiency level for P99 series filters against liquid particulates for non-powered, air-purifying respirators.	1,200
TEB–APR–STP–0053—Determination of particulate filter efficiency level for P95 series filters against liquid particulates for non-powered, air-purifying respirators.	1,200
TEB–APR–STP–0054—Determination of particulate filter efficiency level for R100 series filters against liquid particulates for non-powered, air-purifying respirators.	1,200

Standard Test Procedure	Fee ($)
TEB–APR–STP–0055—Determination of particulate filter efficiency level for R99 series filters against liquid particulates for non-powered, air-purifying respirators.	1,200
TEB–APR–STP–0056—Determination of particulate filter efficiency level for R95 series filters against liquid particulates for non-powered, air-purifying respirators.	1,200
TEB–APR–STP–0057—Determination of particulate filter efficiency level for N100 series filters against solid particulates for non-powered, air-purifying respirators.	1,200
TEB–APR–STP–0058—Determination of particulate filter efficiency level for N99 series filters against solid particulates for non-powered, air-purifying respirators.	1,200
TEB–APR–STP–0059—Determination of particulate filter efficiency level for N95 series filters against solid particulates for non-powered, air-purifying respirators.	1,200
RCT–APR–STP–0060—Determination of end-of-service-life indicator drop	300
RCT–APR–STP–0061—Determination of end-of-service-life indicator visibility	300
RCT–APR–STP–0062—Determination of nitrogen dioxide service life	750
RCT–APR–STP–0063—Determination of facepiece carbon dioxide and oxygen concentration levels—tight fitting, powered air-purifying respirators, with the blower unit running.	300
RCT–APR–STP–0064—Determination of facepiece carbon dioxide and oxygen concentration levels, tight fitting, powered air-purifying respirators, with the blower unit off.	300
RCT–APR–STP–0065—Determination of air flow resistance, breath responsive, powered air-purifying respirators	300
RCT–APR–STP–0066—Determination of end-of-service-life indicator (ESLI)	300
RCT–APR–STP–0067—Particulate respirator qualitative fit test utilizing saccharin or bitrex solutions	1800
Air-Supplied Respirators	
RCT–ASR–STP–0100—Determination of strength of hoses and couplings, type C and CE supplied-air respirators	150
RCT–ASR–STP–0101—Determination of tightness of hoses and couplings, type C and CE supplied-air respirators	150
RCT–ASR–STP–0102—Determination of nonkinkability of hoses, type C and CE supplied-air respirators	150
RCT–ASR–STP–0103—Determination of gasoline permeation of hoses and couplings, type C and CE supplied-air respirators	450
RCT–ASR–STP–0104—Determination of air-regulating valve 100,000 cycles performance, demand and pressure-demand type C and CE supplied-air respirators.	3,000
RCT–ASR–STP–0105—Determination of airflow, continuous flow type C and CE supplied-air respirators	300
RCT–ASR–STP–0105A—Determination of airflow, demand and pressure-demand type C and CE supplied-air respirators	300
RCT–ASR–STP–0106—Determination of inhalation airflow resistance, pressure-demand type C and CE supplied-air respirators	150
RCT–ASR–STP–0107—Determination of exhalation airflow resistance, pressure-demand type C and CE supplied-air respirators	150
RCT–ASR–STP–0108—Determination of inhalation airflow resistance, demand type C and CE supplied-air respirators	150
RCT–ASR–STP–0109—Determination of exhalation airflow resistance, demand type C and CE supplied-air respirators	150
RCT–ASR–STP–0110—Determination of gas-tightness test, isoamyl acetate (IAA), type C and CE supplied-air respirators	450
RCT–ASR–STP–0111—Determination of air velocity and noise levels—sound level, type C and CE supplied-air respirators	450
RCT–ASR–STP–0112—Determination of the level of protection provided by abrasive blast, type CE supplied-air respirators using a challenge aerosol of NaCl (sodium chloride) or corn oil.	450
RCT–ASR–STP–0113—Determination of airflow resistance—continuous-flow, type C and CE supplied-air respirators	150
RCT–ASR–STP–0114—Determination of sound-level measurement—escape, open-circuit self-contained breathing apparatus using hoods or helmets.	450
RCT–ASR–STP–0115—Determination of rated service time—constant-flow, escape, open-circuit self-contained breathing apparatus.	150
RCT–ASR–STP–0116—Determination of airflow resistance—continuous-flow, escape, open-circuit self-contained breathing apparatus with hoods.	150
RCT–ASR–STP–0117—Determination of positive pressure—closed-circuit, pressure-demand, self-contained breathing apparatus	150
RCT–ASR–STP–0118—Determination of low temperature operation—minimum temperature per applicant, open-circuit self-contained breathing apparatus.	1,200
RCT–ASR–STP–0119—Determination of low-temperature operation—minimum temperature per applicant, combination open-circuit self-contained breathing apparatus and type C and CE supplied-air respirators.	1,200
RCT–ASR–STP–0120—Determination of positive pressure—open-circuit, pressure-demand self-contained breathing apparatus	75
RCT–ASR–STP–0121—Determination of rated service time—open-circuit, demand and pressure-demand, self-contained breathing apparatus.	75
RCT–ASR–STP–0121A—Determination of rated service time—closed-circuit, demand and pressure-demand, self-contained breathing apparatus.	75
RCT–ASR–STP–0122—Determination of exhalation breathing resistance—open-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0123—Determination of gas flow measurements—open-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0124—Determination of remaining service-life indicator—open-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0124A—Determination of alarm pressure—closed-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0125—Determination of gas tightness—isoamyl acetate (IAA)—self-contained breathing apparatus with facepieces and mouthpieces.	750
RCT–ASR–STP–0125A—Determination of gas tightness—isoamyl acetate (IAA)—self-contained breathing apparatus with hoods or helmets.	750
RCT–ASR–STP–0126—Determination of by-pass valve flow—open-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0127—Determination of by-pass valve flow—closed-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0128—Determination of accuracy of gauge—self-contained breathing apparatus	150

Standard Test Procedure	Fee ($)
RCT–ASR–STP–0132—Determination of inhalation breathing resistance—open-circuit, demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0133—Determination of exhalation breathing resistance—open-circuit, pressure-demand, self-contained breathing apparatus using two second stage regulators.	150
RCT–ASR–STP–0134—Determination of gasoline permeation test on breathing bags—closed-circuit, self-contained breathing apparatus.	750
RCT–ASR–STP–0135—Determination of inhalation and exhalation breathing resistance—closed-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0136—Determination of demand gas flow—closed-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0137—Determination of continuous gas flow on constant flow with demand flow—closed-circuit, self-contained breathing apparatus.	450
RCT–ASR–STP–0138—Determination of safety relief valve operation—closed-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0139—Determination of facepiece carbon dioxide concentrations—self-contained breathing apparatus	450
RCT–ASR–STP–0140—Man tests—self-contained breathing apparatus	3,000
RCT–ASR–STP–0141—Man test number 5—closed-circuit, self-contained breathing apparatus	150
RCT–ASR–STP–0142—Determination of vibration (Ro-Tap test) for man test number 1—escape, closed-circuit, demand, self-contained breathing apparatus.	750
RCT–ASR–STP–0143—Determination of low-temperature operation—minimum per manufacturer—closed-circuit, self-contained breathing apparatus.	1,200
RCT–ASR–STP–0144—Determination of continuous gas flow on constant flow—closed-circuit, self-contained breathing apparatus.	300
RCT–ASR–STP–0145—Determination of sound level measurements for remaining service-life indicators—self-contained breathing apparatus.	750
RCT–ASR–STP–0146—Determination of diaphragm over-pressurization—open-circuit, self-contained breathing apparatus with belt mounted regulators and breathing tubes.	300
RCT–ASR–STP–0147—Determination of mode transfer test—combination, open-circuit self-contained breathing apparatus and supplied-air respirators (SCBA/SAR).	150
RCT–ASR–STP–0148—Determination of remote gauge leak-flow test—open-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0148A—Determination of remote gauge leak-flow test—closed-circuit, demand and pressure-demand, self-contained breathing apparatus.	150
RCT–ASR–STP–0155—Man test number 6—self-contained breathing apparatus using liquefied gas	2,400
Chemical, Biological, Radiologic, Nuclear (CBRN) Air-Purifying and Air-Supplied Respirators	
NIOSH/NPPTL administrative support for all CBRN projects	1,300
# *RCT–CBRN–STP–0200, 0201*—Determination of open-circuit self-contained breathing apparatus (SCBA) performance during dynamic testing against chemical agents of sarin (GB) vapor and distilled sulfur mustard (HD) vapor and liquid—*GB live agent testing*.	6,000
# *RCT–CBRN–STP–0200, 0201*—Determination of open-circuit self-contained breathing apparatus (SCBA) performance during dynamic testing against chemical agents sarin (GB) vapor and of distilled sulfur mustard (HD) vapor and liquid—*HD live agent testing*.	6,000
# *RCT–CBRN–STP–0200, 0201—aerosol process TDA–99M only*	600
CET–APRS–STP–CBRN–0301—Determination of CBRN organic vapor (cyclohexane) service-life test	1,000
CET–APRS–STP–CBRN–0302—Determination of CBRN acid gases (cyanogen chloride) service-life test	2,400
CET–APRS–STP–CBRN–0303—Determination of CBRN acid gases (hydrogen cyanide) service-life test	2,400
CET–APRS–STP–CBRN–0304—Determination of CBRN acid gases (phosgene) service-life test	1,400
CET–APS–STP–CBRN–0305—Determination of CBRN acid gases (hydrogen sulfide) service-life test	800
CET–APRS–STP–CBRN–0306—Determination of CBRN acid gases (sulfur dioxide) service-life test	800
CET–APRS–STP–CBRN–0307—Determination of CBRN acid gases (ammonia) service-life test	1,000
CET–APRS–STP–CBRN–0308—Determination of CBRN nitrogen oxide gases (nitrogen dioxide) service-life test	1,200
CET–APRS–STP–CBRN–0309—Determination of CBRN hydride gases (phosphine) service-life test	1,000
CET–APRS–STP–CBRN–0310—Determination of CBRN formaldehyde service-life test, air-purifying respirators	1,000
CET–APRS–STP–CBRN–0311—Laboratory durability conditioning process for environmental, transportation and rough handling use conditions on chemical, biological, radiological, and nuclear (CBRN) respiratory protective devices (RPD) standard conditioning procedure (SCP)—*US Army Research Development and Engineering Command (RDECOM) environmental conditioning*.	20,000
CET–APRS–STP–CBRN–0311—NPPTL environmental conditioning	16,000
CET–APRS–STP–CBRN–0311—RDECOM modified environmental conditioning—minus 125 canisters	16,000
CET–APRS–STP–CBRN–0311—NPPTL modified environmental conditioning—minus 125 canisters	8,000
CET–APRS–STP–CBRN–0312—Determination of field of view for full facepiece chemical biological radiological nuclear (CBRN) respiratory protective devices (RPD).	1,000
TEB–CBRN–APR–STP–0313—Determination of communication performance test for speech conveyance and intelligibility of chemical biological radiological and nuclear (CBRN) full-facepiece air-purifying respirator.	5,000
CET–APRS–STP–CBRN–0314—Determination of lens fogging on full facepiece chemical biological radiological nuclear (CBRN) air-purifying respirator.	3,000
CET–APRS–STP–CBRN–0316—Determination of haze, luminous-transmittance, and abrasion-resistance properties of the primary lens system material for full-facepiece respiratory protective devices (RPD).	2,000
# *RCT–CBRN–APR–STP–0350*—Determination of full facepiece, tight-fitting, negative-pressure, air-purifying respirator (APR) performance during dynamic testing against the chemical agent vapor sarin (GB)—*qualifier live agent testing (QLAT) only*.	7,000
# *RCT–CBRN–APR–STP–0350—remainder live agent testing (RLAT)*	6,000

Standard Test Procedure	Fee ($)
# *RCT–CBRN–APR–STP–0351*—Determination of full-facepiece, tight-fitting, negative-pressure, air-purifying respirator (APR) performance during dynamic testing against chemical agent distilled sulfur mustard (HD) vapor and liquid CBRN—*qualifier live agent testing (QLAT) only*.	7,000
# *RCT–CBRN–APR–STP–0351—remainder live agent testing (RLAT)*	6,000
# *RCT–CBRN–APR–STP–0350 and RCT–CBRN–APR–STP–0351—aerosol process TDA–99M*	600
TEB–CBRN–APR–STP–0352—Determination of laboratory respirator protection level (LRPL) values for CBRN self-contained breathing apparatus (SCBA) facepieces or CBRN air-purifying respirator (APR)—*LRPL*.	20,000
TEB–CBRN–APR–STP–0352—partial laboratory respirator protection level (LRPL) (in cases where failure occurs with less than 50% of subjects tested).	16,000
* *TEB–CBRN–APR–STP–0353*—Weight and diameter	200
CET–APRS–STP–CBRN–0401—Determination of CBRN organic vapor (cyclohexane) service-life test, air-purifying escape respirators.	1,000
CET–APRS–STP–CBRN–0402—Determination of CBRN acid gases (cyanogen chloride) service-life test, air-purifying escape respirators.	2,400
CET–APRS–STP–CBRN–0403—Determination of CBRN acid gases (hydrogen cyanide) service-life test, air-purifying escape respirators.	2,400
CET–APRS–STP–CBRN–0404—Determination of CBRN acid gases (phosgene) service-life test, air-purifying escape respirators	1,400
CET–APRS–STP–CBRN–0405—Determination of CBRN acid gases (hydrogen sulfide) service-life test, air-purifying escape respirators.	800
CET–APRS–STP–CBRN–0406—Determination of CBRN acid gases (sulfur dioxide) service-life test, air-purifying escape respirators.	800
CET–APRS–STP–CBRN–0407—Determination of CBRN base gases (ammonia) service-life test, air-purifying escape respirators	1,000
CET–APRS–STP–CBRN–0408—Determination of CBRN nitrogen oxide gases (nitrogen dioxide) service-life test, air-purifying escape respirators.	1,200
CET–APRS–STP–CBRN–0409—Determination of CBRN hydride gases (phosphine) service-life test, air-purifying escape respirators.	1,000
CET–APRS–STP–CBRN–0410—Determination of CBRN formaldehyde service-life test, air-purifying escape respirators	1,000
CET–APRS–STP–CBRN–0411—Laboratory durability conditioning process for environmental, transportation and rough handling use conditions on chemical, biological, radiological and nuclear (CBRN) (air-purifying or self-contained) escape respirator—*RDECOM environmental conditioning*.	22,000
CET–APRS–STP–CBRN–0411—NPPTL environmental conditioning	20,000
* *CET–APRS–STP–CBRN–0414*—Fogging	4,000
* *CET–APRS–STP–CBRN–0417*—Flammability, heat resistance	14,000
# *CET–APRS–STP–CBRN–0450*—Determination of chemical agent permeation and penetration resistance performance against sarin (GB) vapor of chemical, biological, radiological, and nuclear (CBRN) air-purifying escape respirator—*qualifier live agent testing (QLAT) only*.	7,000
# *CET–APRS–STP–CBRN–0450—remainder live agent testing (RLAT)*	6,000
# *CET–APRS–STP–CBRN–0451*—Determination of chemical agent permeation and penetration resistance performance against sulfur mustard (HD) liquid and vapor of the chemical, biological, radiological, and nuclear (CBRN) air-purifying escape respirator—*qualifier live agent testing (QLAT) only*.	7,000
# *CET–APRS–STP–CBRN–0451—remainder live agent testing (RLAT)*	6,000
# *CET–APRS–STP–CBRN–0450 and CET–APRS–STP–CBRN–0451—aerosol process TDA–99M*	600
TEB–CBRN–APR–STP–0452—Determination of laboratory respirator protection level (LRPL) values for CBRN air-purifying escape respirator—*LRPL*.	20,000
TEB–CBRN–APR–STP–0452—partial LRPL	16,000
CET–APRS–STP–CBRN–0454—Determination of human subject breathing gas (HSBG) concentrations (carbon dioxide and oxygen) for chemical, biological, radiological and nuclear (CBRN) air-purifying escape respirator.	3,500
* *CET–APRS–STP–CBRN–0455*—Human subject breathing gas test	6,000
CET–APRS–STP–CBRN–0456—Determination of practical performance level for chemical, biological, radiological and nuclear (CBRN) (air-purifying or self-contained) escape respirator.	([1])
CET–APRS–STP–CBRN–0499—Determination of donning effectiveness of chemical, biological, radiological and nuclear (CBRN) (air-purifying or self-contained) escape respirator.	([1])
TEB–CBRN–STP–0501—Determination of CBRN organic vapor (cyclohexane) service-life test, tight-fitting powered air-purifying respirators (PAPR).	1,000
TEB–CBRN–STP–0502—Determination of CBRN acid gases (cyanogen chloride) service-life test, tight-fitting powered air-purifying respirators (PAPR).	2,400
TEB–CBRN–STP–0503—Determination of CBRN acid gases (hydrogen cyanide) service-life test, tight-fitting powered air-purifying respirators (PAPR).	2,400
TEB–CBRN–STP–0504—Determination of CBRN acid gases (phosgene) service-life test, tight-fitting powered air-purifying respirators (PAPR).	1,400
TEB–CBRN–STP–0505—Determination of CBRN acid gases (hydrogen sulfide) service-life test, tight-fitting powered air-purifying respirators (PAPR).	800
TEB–CBRN–STP–0506—Determination of CBRN acid gases (sulfur dioxide) service-life test, tight-fitting powered air-purifying respirators (PAPR).	800
TEB–CBRN–STP–0507—Determination of CBRN base gases (ammonia) service-life test, tight-fitting powered air-purifying respirators (PAPR).	1,000
TEB–CBRN–STP–0508—Determination of CBRN nitrogen oxide gases (nitrogen dioxide) service-life test, tight-fitting powered air-purifying respirators (PAPR).	1,200
TEB–CBRN–STP–0509—Determination of CBRN hydride gases (phosphine) service-life test, tight-fitting powered air-purifying respirators (PAPR).	1,000
TEB–CBRN–STP–0510—Determination of CBRN formaldehyde service-life test, tight-fitting powered air-purifying respirators (PAPR).	1,000

Standard Test Procedure	Fee ($)
TEB–APR–STP–0511–CBRN—Determination of CBRN organic vapor (cyclohexane) service-life test, loose-fitting powered air-purifying respirators (PAPR).	1,000
TEB–APR–STP–0512–CBRN—Determination of CBRN acid gases (cyanogen chloride) service-life test, loose-fitting powered air-purifying respirators (PAPR).	2,400
TEB–APR–STP–0513–CBRN—Determination of CBRN acid gases (hydrogen cyanide) service-life test, loose-fitting powered air-purifying respirators (PAPR).	2,400
TEB–APR–STP–0514–CBRN—Determination of CBRN acid gases (phosgene) service-life test, loose-fitting powered air-purifying respirators (PAPR).	1,400
TEB–APR–0515–CBRN—Determination of CBRN acid gases (hydrogen sulfide) service-life test, loose-fitting powered air-purifying respirators (PAPR).	800
TEB–APR–STP–0516–CBRN—Determination of CBRN acid gases (sulfur dioxide) service-life test, loose-fitting powered air-purifying respirators (PAPR).	800
TEB–APR–STP–0517–CBRN—Determination of CBRN base gases (ammonia) service-life test, loose-fitting powered air-purifying respirators (PAPR).	1,000
TEB–APR–STP–0518–CBRN—Determination of CBRN nitrogen oxide gases (nitrogen dioxide) service-life test, loose-fitting powered air-purifying respirators (PAPR).	1,200
TEB–APR–STP–0519–CBRN—Determination of CBRN hydride gases (phosphine) service-life test, loose-fitting powered air-purifying respirators (PAPR).	1,000
TEB–APR–STP–0520–CBRN—Determination of CBRN formaldehyde service-life test, loose-fitting powered air-purifying respirators (PAPR).	1,000
NPPTL–STP–CBRN–PAPR–0550—Determination of CBRN powered air-purifying respirator (PAPR) performance during dynamic testing against the chemical agent vapor sarin (GB) chemical, biological, radiological and nuclear (CBRN) standard testing procedure (STP).	7,000
NPPTL–STP–CBRN–PAPR–0551—Determination of CBRN, powered air-purifying respirator (PAPR) performance during dynamic testing against chemical agent distilled sulfur mustard (HD) vapor and distilled sulfur mustard (HD) liquid chemical, biological, radiological, and nuclear (CBRN) standard testing procedure (STP).	7,000
TEB–CBRN–APR–STP–0552—Determination of laboratory respirator protection level (LRPL) values for CBRN tight-fitting powered air-purifying respirator (PAPR).	20,000
TEB–CBRN–APR–STP–0553—Determination of laboratory respiratory protection level (LRPL) values for CBRN loose-fitting powered air-purifying respirator (PAPR).	20,000
New and Unspecified Tests	
This category is to be used for new, on-going, tests which are developed between revisions of the test fee schedule or for special, one-time tests which are required for respirators with unique features (per 42 CFR 84.63).	([2])

* Draft test procedure in place, but final STP has not been published.
# Test is conducted by U.S. Army Research, Development and Engineering Command Edgewood Chemical Biological Center (ECBC).
[1] No Fee, done as part of LRPL (TEB–CBRN–APR–STP–0452).
[2] $500/day + the actual cost of non-NPPTL staff (typically medical staff and test subjects).

Dated: January 14, 2015.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2015–01046 Filed 1–23–15; 8:45 am]

BILLING CODE 4163–18–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MB Docket Nos. 12–108, 12–107; FCC 13–138]

Accessibility of User Interfaces, and Video Programming Guides and Menus

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Report and Order* implementing provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) related to accessible user interfaces and video programming guides and menus. This document is consistent with the *Report and Order*, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the requirements.

DATES: 47 CFR 79.107(c), 79.108(a)(5), 79.108(c) through (e), and 79.110 published at 78 FR 77210, December 20, 2013 are effective on January 26, 2015.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams, *Cathy.Williams@fcc.gov*, (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on October 1, 2014, OMB approved the information collection requirements contained in the Commission's *Report and Order,* FCC 13–138, published at 78 FR 77210, December 20, 2013. The OMB Control Number is 3060–1203. The Commission publishes this document as an announcement of the effective date of the requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–1203, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

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 and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it

received OMB approval on October 1, 2014, for the new information collection requirements contained in the Commission's rules at 47 CFR 79.107(c), 79.108(a)(5), 79.108(c) through(e), and 79.110.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1203.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1203.

OMB Approval Date: October 1, 2014.

OMB Expiration Date: October 31, 2017.

Title: Section 79.107 User Interfaces Provided by Digital Apparatus; Section 79.108 Video Programming Guides and Menus Provided by Navigation Devices; Section 79.110 Complaint Procedures for User Interfaces, Menus and Guides, and Activating Accessibility Features on Digital Apparatus and Navigation Devices.

Form Number: N/A.

Respondents: Business or other for-profit entities; individuals or households; not-for-profit institutions; and state, local, or tribal governments.

Number of Respondents and Responses: 4,245 respondents; 509,484 responses.

Estimated Time per Response: 0.0167 to 5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Obligation to Respond: Voluntary. The statutory authority for this information collection is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 124 Stat. 2751, and Sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g).

Total Annual Burden: 22,198 hours.

Total Annual Cost: $70,500.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information. As required by the Privacy Act, 5 U.S.C. 552a, the FCC published a system of records notice (SORN), FCC/CGB–1, ''Informal Complaints, Inquiries, and Requests for Dispute Assistance,'' in the **Federal Register** on August 15, 2014 (79 FR 48152), which became effective on September 24, 2014. The Commission believes that it provides sufficient safeguards to protect the privacy of individuals who file complaints under 47 CFR 79.110.

Privacy Act Impact Assessment: The Privacy Impact Assessment (PIA) for Informal Complaints and Inquiries was completed on June 28, 2007. It may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: On October 31, 2013, in document FCC 13–138, the Commission released a *Report and Order and Further Notice of Proposed Rulemaking*, MB Docket Nos. 12–108, 12–107, FCC 13–138, adopting rules implementing portions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) related to accessible user interfaces and video programming guides and menus. These rules are codified at 47 CFR 79.107, 79.108, 79.109, and 79.110. Pursuant to section 204 of the CVAA, the *Report and Order* adopts rules requiring digital apparatus to make appropriate built-in functions (*i.e.*, those used for the reception, play back, or display of video programming) accessible to individuals who are blind or visually impaired. Pursuant to section 205 of the CVAA, the *Report and Order* adopts rules requiring navigation devices to make on-screen text menus and guides for the display or selection of multichannel video programming audibly accessible. The *Report and Order* also requires Section 204 digital apparatus to provide access to closed captioning and video description through a mechanism that is reasonably comparable to a button, key, or icon, and requires Section 205 navigation devices to provide access to closed captioning through a mechanism that is reasonably comparable to a button, key, or icon.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer.

[FR Doc. 2015–01240 Filed 1–23–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2014–0066; 4500030113]

RIN 1018–BA68

Endangered and Threatened Wildlife and Plants; Adding Five Species of Sawfish to the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in accordance with the Endangered Species Act of 1973, as amended (Act), are amending the List of Endangered and Threatened Wildlife (List) by adding five species of sawfish: Narrow sawfish (*Anoxypristis cuspidata*), dwarf sawfish (*Pristis clavata*), largetooth sawfish (collectively *Pristis pristis;* formerly *Pristis pristis, Pristis microdon,* and *Pristis perotteti*), green sawfish (*Pristis zijsron*), and the non-U.S. distinct population segment (DPS) of smalltooth sawfish (*Pristis pectinata*). These amendments are based on previously published determinations by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for these species.

DATES: This rule is effective January 26, 2015. *Applicability date:* The five sawfish listings are applicable as of January 12, 2015.

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, Chief, Branch of Endangered Species Listing, U.S. Fish and Wildlife Service, MS–ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; 703–358–2171.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Act (16 U.S.C. 1531 *et seq.*) and Reorganization Plan No. 4 of 1970 (35 FR 15627; October 6, 1970), NMFS has jurisdiction over the marine taxa identified in this rule. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as an endangered or threatened species. NMFS makes these determinations via its rulemaking process. We, the Service, are then responsible for publishing final rules to amend the List in title 50 of the Code of Federal Regulations (CFR) at 50 CFR 17.11(h).

On June 4, 2013, NMFS published a proposed rule (78 FR 33300) to list the narrow sawfish (*Anoxypristis cuspidata*), dwarf sawfish (*Pristis clavata*), largetooth sawfish (collectively *Pristis pristis;* formerly *Pristis pristis, Pristis microdon,* and *Pristis perotteti*), green sawfish (*Pristis zijsron*), and the non-U.S. distinct population segment (DPS) of smalltooth sawfish (*Pristis pectinata*) as endangered species. NMFS solicited public comments on the proposed rule through August 5, 2013. On August 7, 2013, NMFS published a notice extending the comment period through September 19, 2013 (78 FR 48134). On December 12, 2014, NMFS published a final rule (79 FR 73977) to list the five species of sawfish as endangered species. The largetooth sawfish (*P. perotteti*) was already listed under the Act as endangered on July 12, 2011 (76 FR 40822), but this final listing concerns the entire largetooth sawfish species (*P. pristis*) as it is currently classified, which also includes the species formerly classified as *P. perotteti* and *P. microdon.*

The listing of the five sawfish species is effective as of January 12, 2015. In the December 12, 2014, final rule (79 FR 73977), NMFS addressed all public comments received in response to the proposed rule. By publishing this final rule, we are simply taking the necessary administrative step to codify these changes in the List at 50 CFR 17.11(h). We are also revising the current CFR entry for the U.S. DPS of smalltooth sawfish to make the presentation of information in that entry consistent with the new sawfish entries being added to the List via this rule; the changes to that entry are not substantive.

Administrative Procedure Act

Because NMFS provided a public comment period on the proposed rules for these taxa, and because this action of the Service to amend the List in accordance with the determination by NMFS is nondiscretionary, the Service finds good cause that the notice and public comment procedures of 5 U.S.C. 553(b) are unnecessary for this action. We also find good cause under 5 U.S.C. 553(d)(3) to make this rule effective immediately. The NMFS rules extended protection under the Act to these species and listed them in 50 CFR part 224; this rule is an administrative action to add the species to the List at 50 CFR 17.11(h). The public would not be served by delaying the effective date of this rulemaking action.

Required Determinations

National Environmental Policy Act

We have determined that an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We outlined our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we 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.

■ 2. Amend § 17.11(h), in the List of Endangered and Threatened Wildlife, under Fishes by:

■ a. Revising the entries for ''Sawfish, largetooth'' and ''Sawfish, smalltooth (United States DPS)'' to read as set forth below; and

■ b. Adding entries in alphabetical order for: ''Sawfish, dwarf''; ''Sawfish, green''; ''Sawfish, narrow''; and ''Sawfish, smalltooth (Non-U.S. DPS)'', to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Sawfish, dwarf	*Pristis clavata*	Indo-Pacific, Western Pacific, and eastern Indian Oceans.	Entire	E	856	NA	NA
Sawfish, green	*Pristis zijsron*	Indo-Pacific Ocean, Persian Gulf, Red Sea.	Entire	E	856	NA	NA
Sawfish, largetooth	*Pristis pristis* (formerly *Pristis perotteti, Pristis pristis,* and *Pristis microdon).*	Indian, Indo-Pacific, Eastern Pacific, and Atlantic Oceans, Gulf of Mexico.	Entire	E	856	NA	NA
Sawfish, narrow	*Anoxypristis cuspidata*	Indian and Western Pacific Oceans, Red Sea.	Entire	E	856	NA	NA
Sawfish, smalltooth (Non-U.S. DPS).	*Pristis pectinata*	Atlantic Ocean, Caribbean Sea, Gulf of Mexico.	Smalltooth sawfish originating from non-U.S. waters.	E	856	NA	NA
Sawfish, smalltooth (U.S. DPS).	*Pristis pectinata*	North Atlantic Ocean (Mediterranean, U.S. Atlantic, and Gulf of Mexico) and the Southwest Atlantic Ocean.	Smalltooth sawfish originating from U.S. waters.	E	748	226.218	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	

* * * * *

Dated: January 9, 2015.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–01348 Filed 1–23–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD728

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

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

ACTION: Temporary rule.

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

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 26, 2015, until the effective date of the final 2015 and 2016 harvest specifications for Bering Sea and Aleutian Islands (BSAI) groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

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

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

In the Aleutian Islands subarea, the portion of the 2015 pollock total allowable catch (TAC) allocated to the Community Development Quota (CDQ) directed fishing allowance (DFA) is 1,900 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014), and as adjusted by an inseason adjustment (80 FR 188, January 5, 2015).

As of January 15, 2015, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that 1,900 mt of pollock CDQ DFA in the Aleutian Islands subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS reallocates 1,900 mt of pollock CDQ DFA from the Aleutian Islands subarea to the 2015 Bering Sea subarea allocations. The 1,900 mt of pollock CDQ DFA is added to the 2015 Bering Sea CDQ DFA. As a result, the 2015 harvest specifications for pollock in the Aleutian Islands subarea included in the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014) are revised as follows: 0 mt to CDQ DFA. Furthermore, pursuant to § 679.20(a)(5), Table 3 of the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014), as adjusted by the inseason adjustment (80 FR 188, January 5, 2015), is revised to make 2015 pollock allocations consistent with this reallocation. This reallocation results in adjustments to the 2015 CDQ pollock allocations established at § 679.20(a)(5).

TABLE 3—FINAL 2015 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2015 Allocations	2015 A season [1]		2015 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,310,000	n/a	n/a	n/a
CDQ DFA	132,900	53,160	37,212	79,740
ICA [1]	47,160	n/a	n/a	n/a
AFA Inshore	565,920	226,368	158,458	339,552
AFA Catcher/Processors [3]	452,736	181,094	126,766	271,642
Catch by C/Ps	414,253	165,701	n/a	248,552
Catch by CVs [3]	38,483	15,393	n/a	23,090
Unlisted C/P Limit [4]	2,264	905	n/a	1,358
AFA Motherships	113,184	45,274	31,692	67,910
Excessive Harvesting Limit [5]	198,072	n/a	n/a	n/a
Excessive Processing Limit [6]	339,552	n/a	n/a	n/a
Total Bering Sea DFA	1,131,840	452,736	316,915	679,104
Aleutian Islands subarea ABC	29,659	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a
CDQ DFA	0	0	n/a	0
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	15,100	12,259	n/a	2,841

TABLE 3—FINAL 2015 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]—Continued

[Amounts are in metric tons]

Area and sector	2015 Allocations	2015 A season [1]		2015 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Area harvest limit: 541	8,898	n/a	n/a	n/a
542	4,449	n/a	n/a	n/a
543	1,483	n/a	n/a	n/a
Bogoslof District ICA [7]	100	n/a	n/a	n/a

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

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

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

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

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

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

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC. The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of AI pollock. Since the pollock fishery opens January 20, 2015, it is important to immediately inform the industry as to the final Bering Sea subarea pollock allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased seasonal pollock allocations while value is optimum. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 15, 2014.

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: January 21, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–01302 Filed 1–23–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 16
Monday, January 26, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 702

RIN 3133–AE44

Capital Planning and Stress Testing—Schedule Shift

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is issuing proposed amendments to the regulation governing credit union capital planning and stress testing. The amendments would adjust the timing of certain events in the capital planning and stress testing cycles. If finalized, the revisions to the regulation would become effective January 1, 2016.

DATES: Comments must be received on or before March 27, 2015.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Proposed Rule—Capital Planning and Stress Testing—Schedule Shift'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

FOR FURTHER INFORMATION CONTACT: Jeremy Taylor or Dale Klein, Senior Capital Markets Specialists, Office of National Examinations and Supervision, at the above address or telephone (703) 518–6640.

SUPPLEMENTARY INFORMATION:

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I. Background
II. Proposed Amendments
III. Regulatory Procedures

I. Background

In April 2014, the Board issued a final rule requiring capital planning and stress testing for federally insured credit unions (FICUs) with assets of $10 billion or more.[1] Capital planning requires covered credit unions to assess their financial condition and risks over the planning horizon under both expected and unfavorable conditions. Annual supervisory stress testing allows NCUA to obtain an independent test of these credit unions under stress scenarios. By setting a regulatory minimum capital ratio under stress, the final rule requires covered credit unions to take corrective action before they become undercapitalized to an extent that may cause loss to the National Credit Union Share Insurance Fund.

The final rule provides several timeframes for the formulation and submission of capital plans and for the stress testing of covered credit unions. One critical date in the stress testing process is the date NCUA releases the baseline, adverse, and severely adverse economic scenarios that serve as basis for the testing. As noted in the preamble to the proposed rule, NCUA plans to base the scenarios on those developed by the Federal Reserve, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the banking agencies) for their regulated institutions.[2] At the time the Board issued NCUA's final rule, the banking agencies were scheduled to provide scenarios for their regulated institutions by November 15 each year.[3] The banking agencies subsequently moved their scenario release dates to February 15.[4]

The Board intends to ensure that scenarios used for credit union stress testing essentially conform to those used by the banking agencies, both in substance and timing. The new schedule on which the banking agencies' scenarios are published necessitates NCUA's modification of its own stress testing schedule.

Accordingly, this proposed rule would amend the capital planning and stress testing rule to change NCUA's scenario release date from December 1 to February 28. In addition, the Board proposes to apply a more uniform fixed annual timeline for both capital planning and stress testing required under the rule. It also proposes to reword several provisions in the rule to clarify their meaning. The Board seeks comment on all aspects of this proposal.

II. Proposed Amendments

The proposed changes to the capital planning and stress testing rule are discussed in detail below.

1. Section 702.502—Definitions

Section 702.502 of the current rule defines certain terms used in the capital planning and stress testing rule. The proposed rule amends one current definition and adds one new definition. The current rule defines a ''covered credit union'' as a FICU whose assets were at least $10 billion on March 31 of ''the current calendar year,'' which the Board believes may be unclear. The proposal clarifies that a covered credit union is one whose assets are $10 billion or more and that a FICU that crosses the asset threshold as of March 31 is subject to the capital planning and stress testing requirements of the rule in the following calendar year. In addition, the proposal adds a new definition for the term ''capital planning process'' to clarify that the process integrates the development of a capital planning policy with the formulation of a capital plan.

2. Section 702.504—Capital Planning

Paragraph (a)(1) of current § 702.504 requires a covered credit union to submit a capital plan by February 28 of each year based on the credit union's financial data as of September 30 of the preceding year. The proposal changes the capital plan submission date to April 30 and the as-of date to December 31 of the preceding year. The Board believes that a year-end as-of date will coincide more closely with annual strategic planning cycles at the covered credit unions. With the as-of date shifted from September 30 to December 31, the proposal correspondingly shifts

[1] 12 CFR part 702, subpart E; 79 FR 24311 (Apr. 30, 2014). The rule refers to FICUs with assets of $10 billion or more as ''covered credit unions.''

[2] 78 FR 65583, 65584 (Nov. 1, 2013).

[3] 12 CFR 46.5, 252.144, 252.154, and 325.204.

[4] 79 FR 64026 (Oct. 27, 2014); 79 FR 69365 (Nov. 21, 2014); 79 FR 71630 (Dec. 3, 2014).

the capital plan submission date as well. The Board notes that the proposal provides a covered credit union four months from the as-of date to complete its capital plan, rather than the five months in the current rule. This reduces the time a covered credit union will have to complete its plan, but the Board believes the modification is necessary to enable other dates in the capital planning and stress testing cycles to be synchronized. The Board also believes it is sufficient time for covered credit unions to complete the capital planning process.

3. Section 702.505—NCUA Action on Capital Plans

Paragraph (a) of current § 702.505 provides that NCUA will notify a covered credit union of the acceptance or rejection of its capital plan within 90 calendar days of the plan's submission. The proposal modifies this provision to establish a fixed date of July 31, which is 90 days after April 30, the revised date the covered credit union is required to submit its capital plan to NCUA under proposed § 702.504(a)(1). The Board has determined that agency resources will be more efficiently allocated with a fixed date. In addition, the fixed date will ensure uniform timing of NCUA acceptance or rejection of credit union capital plans.

Paragraph (b) of current § 702.505 enumerates the reasons NCUA may reject a covered credit union's capital plan including, in paragraph (b)(5), that NCUA finds unacceptable weakness in the plan, the planning analysis, or any system or process supporting the analysis. The proposal adds ''or policy'' to this provision, clarifying the Board's intention that a covered credit union's capital policy and plan must intersect.

Paragraph (d) of current § 702.505 provides that if NCUA rejects a covered credit union's capital plan, the credit union must update and resubmit a plan within 90 days of the rejection. For consistency with the other deadlines mandated by the rule, the proposal changes this to a fixed date of October 31. The Board notes that this modification will not affect the amount of time a covered credit union will have to update and resubmit a capital plan. The proposal still provides a credit union 90 days to submit a revised plan.

4. Section 702.506—Annual Supervisory Stress Testing

Paragraph (a) of current § 702.506 provides that NCUA will release the baseline, adverse, and severely adverse stress test scenarios by December 1 of each year. In light of the banking agencies' new scenario release date of February 15, as discussed above, the proposal likewise shifts NCUA's release date to February 28. The proposal also shifts the as-of date for financial data from September 30 to December 31, for consistency with the changes affecting the capital planning process. In addition, the proposal deletes a redundant reference in paragraph (a) that requires a credit union to include the stress test results in the following year's capital plan, as the requirement is contained in paragraph (g).

Paragraph (c) of current § 702.506 provides that after NCUA has conducted three consecutive stress tests, a covered credit union may, with NCUA approval, conduct its own stress tests. It states that a credit union must submit its request to conduct the tests by July 31 and that NCUA will approve or disapprove the request by August 31. Consistent with the other proposed date shifts described above, the proposal moves the request date to October 31 and the response date to November 30. The proposal also adds language to paragraph (c) to clarify that a covered credit union must be subject to three NCUA-run stress tests before it seeks self-testing authority. This clarifying language makes paragraph (d) redundant, so the proposal deletes it. The proposal also redesignates paragraphs (e) through (i) as paragraphs (d) through (g), respectively.

Paragraph (g) of current § 702.506 states that NCUA will provide each covered credit union with its stress test results by May 31. Redesignated paragraph (f) of the proposal shifts that date to July 31.

Paragraph (h) of current § 702.506 states that if the NCUA-run stress tests show a covered credit union cannot maintain a stress test capital ratio of at least 5 percent, the credit union must provide NCUA, within 90 days of receipt of the stress test results, a stress test capital enhancement plan showing how it will meet the target. For consistency with the other deadlines in the rule, redesignated paragraph (g) of the proposal changes this to a fixed date of October 31, which is still 90 days from the time NCUA provides stress test results to the covered credit union.

5. Table Summarizing Proposed Date Changes

The following table summarizes the proposed changes to the annual timelines provided in the capital and stress testing rule.

TABLE 1—REVISED ANNUAL CAPITAL PLANNING AND STRESS TESTING TIMELINES

Action required	Current rule	Proposed rule
As-of date for covered credit union's capital plan and NCUA stress test data	September 30	December 31.
NCUA releases stress test scenarios	December 1	February 28.
Covered credit union submits capital plan to NCUA (incorporating credit union–run stress tests, if authorized).	February 28	April 30.
NCUA provides NCUA-run stress test results to covered credit union	May 31	July 31.
NCUA accepts or rejects covered credit union's capital plan	Within 90 days of plan's submission	July 31.
Covered credit union submits stress test capital enhancement plan, if required	Within 90 days of receipt of test results	October 31.
Covered credit union submits revised capital plan, if required	Within 90 days of NCUA rejection	October 31.
Covered credit union requests authority to conduct stress tests	July 31	October 31.
NCUA approves or declines covered credit union's request to conduct stress tests	August 31	November 30.

III. Regulatory Procedures

a. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under $50 million in assets).[5] Because the proposed rule only applies to FICUs with $10 billion or more in assets, it will not have any economic impact on small credit unions.

[5] 5 U.S.C. 603(a).

b. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities

or increases an existing burden.[6] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. The proposed changes to part 702 do not impose any new information collection requirements, and there is no new burden.

c. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The proposed rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

d. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board, on January 15, 2015.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration proposes to amend part 702 as follows:

PART 702—CAPITAL ADEQUACY

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

Authority: 12 U.S.C. 1766(a), 1790d.

■ 2. Amend § 702.502 by adding a definition of ''Capital planning process'' in alphabetical order and revising the definition of ''Covered credit union'' to read as follows:

§ 702.502 Definitions.

* * * * *

Capital planning process means development of a capital policy and formulation of a capital plan that conforms to this policy.

Covered credit union means a federally insured credit union whose assets are $10 billion or more. A credit union that crosses the asset threshold as of March 31 is subject to the capital planning and stress testing requirements of this subpart in the following calendar year.

* * * * *

■ 3. Amend § 702.504 by revising paragraph (a)(1) to read as follows:

§ 702.504 Capital planning.

(a) * * *

(1) A covered credit union must develop and maintain a capital plan. It must submit this plan and its capital policy to NCUA by April 30 each year, or such later date as directed by NCUA. The plan must be based on the credit union's financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA. NCUA will assess whether the capital planning and analysis process is sufficiently robust in determining whether to accept a credit union's capital plan.

* * * * *

■ 4. Amend § 702.505 by revising paragraphs (a), (b)(5), and (d) to read as follows:

§ 702.505 NCUA action on capital plans.

(a) *Timing.* NCUA will notify the covered credit union of the acceptance or rejection of its capital plan by July 31 of the year in which the credit union submitted its plan.

(b) * * *

(5) NCUA finds unacceptable weakness in the capital plan or policy, the capital planning analysis, or any critical system or process supporting capital analysis;

* * * * *

(d) *Resubmission of a capital plan.* If NCUA rejects a credit union's capital plan, the credit union must update and resubmit an acceptable capital plan to NCUA by October 31 of the year in which the credit union submitted its plan. The resubmitted capital plan must, at a minimum, address:

(1) NCUA-noted deficiencies in the credit union's original capital plan or policy; and

(2) Remediation plans for unresolved supervisory issues contributing to the rejection of the credit union's original capital plan.

* * * * *

■ 5. Amend § 702.506 by:

■ a. Revising the first two sentences of paragraph (a);

■ b. Revising paragraph (c);

■ b. Removing paragraph (d);

■ c. Redesignating paragraphs (e) through (i) as (d) through (h), respectively; and

■ d. Revising newly redesignated paragraphs (d) through (g).

The revisions read as follows:

§ 702.506 Annual supervisory stress testing.

(a) *General requirements.* The supervisory stress tests consist of baseline, adverse, and severely adverse scenarios, which NCUA will provide by February 28 of each year. The tests will be based on the credit union's financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA. * * *

* * * * *

(c) *Credit union-run tests under NCUA supervision.* After NCUA has completed three consecutive supervisory stress tests of a covered credit union, the covered credit union may, with NCUA approval, conduct the tests described in this section. A covered credit union must submit its request to NCUA to conduct its own stress test by October 31 for the following annual cycle. NCUA will approve or decline the credit union's request by November 30 of the year in which the credit union submitted its request. NCUA reserves the right to conduct the tests described in this section on any covered credit union at any time. Where both NCUA and a covered credit union have conducted the tests, the results of NCUA's tests will determine whether the covered credit union has met the requirements of this section.

(d) *Potential impact on capital.* In conducting stress tests under this subpart, NCUA or the covered credit union will estimate the following for each scenario during each quarter of the stress test horizon:

(1) Losses, pre-provision net revenues, loan and lease loss provisions, and net income; and

(2) The potential impact on the stress test capital ratio, incorporating the effects of any capital action over the 9-quarter stress test horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the horizon. NCUA or the covered credit union will conduct the stress tests without assuming any risk mitigation actions on the part of the covered credit union, except those existing and identified as part of the covered credit union's balance sheet, or off-balance sheet positions, such as asset sales or derivatives positions, on the date of the stress test.

(e) *Information collection.* Upon request, the covered credit union must

[6] 44 U.S.C. 3507(d); 5 CFR part 1320.

provide NCUA with any relevant qualitative or quantitative information requested by NCUA pertinent to the stress tests under this section.

(f) *Stress test results.* NCUA will provide each covered credit union with the results of the stress tests by July 31 of the year in which it conducted the tests. A credit union conducting its own stress tests must incorporate the test results in its capital plan.

(g) *Supervisory actions.* If NCUA-run stress tests show that a covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the 9-quarter horizon, the credit union must provide NCUA, by October 31 of the calendar year in which NCUA conducted the tests, a stress test capital enhancement plan showing how it will meet that target. If credit union-run stress tests show that a covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the 9-quarter horizon, the credit union must incorporate a stress test capital enhancement plan into its capital plan. Any affected credit union operating without a stress test capital enhancement plan accepted by NCUA may be subject to supervisory actions on the part of NCUA.

* * * * *

[FR Doc. 2015–01239 Filed 1–23–15; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0080; Directorate Identifier 2012–NM–189–AD]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all ATR—GIE Avions de Transport Régional Model ATR42 airplanes. This proposed AD was prompted by several reports of a cracked floor beam at frame (FR) 26, and of discrepancies in certain wing inspection tasks in maintenance documents that could lead to errors in scheduling inspection intervals of structurally significant items (SSIs). This proposed AD would require repetitive inspections of certain floor beams and revision of the maintenance or inspection program to include inspections of several areas of the wings. We are proposing this AD to detect and correct any cracking of the floor beam at FR 26 and several areas of the wings, which could lead to reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by March 12, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0080; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0080; Directorate Identifier 2012–NM–189–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2012–0193, dated September 25, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all ATR—GIE Avions de Transport Régional Model ATR42 airplanes. The MCAI states:

> Floor beam at Frame 26: During maintenance checks, the floor beam at frame (FR) 26 was found cracked on several ATR 42 aeroplanes.
>
> This condition, if not detected and corrected, could lead to reduce the structural integrity of the aeroplane. A new Structural Significant Items (SSI) task will be introduced in the next revision of the ATR42 Time Limits document in order to address this issue.
>
> MRBR/MPD discrepancy on Wings item: A discrepancy has been noticed between the Maintenance Review Board Report (MRBR)/Maintenance Planning Document (MPD) and the Time Limits document. ATR modifications 02805 and 08039 were erroneously stated similar in the MRBR/MPD, inducing misleading applicability of the SSI tasks depending upon the document used and leading operators to miss several inspections, as evidenced during a recent review.
>
> Following the structural investigation, new inspection thresholds have been calculated and will be introduced in the next revisions of the ATR Time Limits documents (Revision 8 and Revision 9, as applicable to the aeroplane models) and MRBR/MPD documents.

For the reasons described above, this [EASA] AD requires repetitive inspections of the FR26 floor beam, and of several areas of the wings, as defined in the ATR42 Time Limits document and, depending on findings, the accomplishment of applicable corrective action(s).

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0080.

Related Service Information

Avions de Transport Régional (ATR) has issued Job Instruction Card 535100 DVI 10097, ''DVI of FR26 Floor Beam Around Cut-outs for Cooling & Hydrau Ducts,'' dated February 9, 2012 (for Model ATR42–200, –300, –320, and –500 airplanes). The service information describes procedures for a detailed inspection for damage (cracks, corrosion, dents, scratches, scores and abrasions) of the floor beam at FR 26, on the left-hand (LH) and right-hand (RH) sides, and, for certain inspection findings, contacting the manufacturer for repair instructions. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Difference Between This Proposed AD and the MCAI

Although the MCAI specifies doing repetitive actions (*e.g.,* structurally significant item (SSI) inspections) in accordance with certain tasks in the maintenance or inspection program, this NPRM proposes to revise the maintenance or inspection program, as applicable, in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. By requiring a revision of the maintenance or inspection program, as applicable, instead of requiring individual repetitive inspections, operators are only required to record AD compliance once when the maintenance or inspection program is revised instead of every time an inspection is accomplished. The repetitive inspections specified in the airworthiness limitations must be complied with in accordance with 14 CFR 91.403(c).

Also, the MCAI specifies that, if there are findings from the inspections, then corrective action must be accomplished in accordance with ATR maintenance documentation. But this proposed AD does not include that requirement because operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to use FAA-acceptable methods when performing maintenance. We consider those methods to be adequate to address any corrective action necessitated by the findings of airworthiness limitations section (ALS) inspections specified in the maintenance or inspection program revision required by this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 31 airplanes of U.S. registry.

We estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $10,540, per inspection cycle, or $340, per inspection cycle, per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

ATR—GIE Avions de Transport Régional: Docket No. FAA–2015–0080; Directorate Identifier 2012–NM–189–AD.

(a) Comments Due Date

We must receive comments by March 12, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all ATR—GIE Avions de Transport Régional (ATR) Model ATR42–200, –300, –320, and –500 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Codes 53, Fuselage; and 57, Wings.

(e) Reason

This AD was prompted by a report of a cracked floor beam at frame (FR) 26 on several Model ATR42 airplanes, and of discrepancies in certain wing inspection tasks in maintenance documents that could lead to errors in scheduling inspection intervals of structurally significant items

(SSIs). We are issuing this AD to detect and correct any cracking of the floor beam at FR 26 and several areas of the wings, which could lead to reduced structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Inspections and Corrective Actions for FR 26 Floor Beam for All Model ATR42 Airplanes

(1) For all Model ATR42 airplanes: At the later of the compliance times specified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD, and thereafter at intervals not to exceed 12,000 flight cycles, accomplish a detailed inspection for damage (cracks, corrosion, dents, scratches, scores and abrasions) of the floor beam at FR 26, on the left-hand (LH) and right-hand (RH) sides, in accordance with the instructions of ATR Job Instruction Card 535100 DVI 10097, ''DVI of FR26 Floor Beam Around Cut-outs for Cooling & Hydrau Ducts,'' dated February 9, 2012 (for Model ATR42–200, –300, –320, and –500 airplanes).

(i) Before the accumulation of 24,000 total flight cycles.

(ii) Within 5,000 flight hours or 24 months, whichever occurs first, after the effective date of this AD.

(2) If, during any inspection required by paragraph (g)(1) of this AD, any damage (corrosion or scratches that are greater than allowed, cracks, dents, scores and abrasions) is found: Before further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA).

(h) SSI Tasks for Certain Model ATR42 Airplanes

For Model ATR42 airplanes on which ATR modification 02805 was not embodied in production: Within 6 months after the effective date of this AD, revise the maintenance or inspection program, as applicable, by incorporating the SSI tasks identified in table 1 to paragraph (h) of this AD, in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA.

TABLE 1 TO PARAGRAPH (H) OF THIS AD—APPLICABLE SSI TASKS AND COMPLIANCE TIMES

For Model—	Use SSI Task—	At this initial time—	And repeat at intervals not to exceed—
ATR–42–500 airplanes	572301–1 or –3, as applicable.	Before 45,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.	7,300 flight cycles.
ATR–42–500 airplanes	572305	Before 46,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.	3,900 flight cycles.
ATR42–200, –300, and –320 airplanes	572301–1, –3, –4, or –5, as applicable.	Before 45,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.	7,300 flight cycles.
ATR42–200, –300, and –320 airplanes	572305–1	Before 46,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.	3,900 flight cycles.
ATR42–200, –300, and –320 airplanes	572409	Before 42,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.	9,000 flight cycles.
ATR42–200, –300, and –320 airplanes	572410, 572411, 572412, 572413, 572414, and 572415.	Before 43,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.	10,000 flight cycles.
ATR42–200, –300, and –320 airplanes	572416 and 572417	Before 44,000 total flight cycles or within 6 months after the effective date of this AD, whichever occurs later.	7,300 flight cycles.

Note 1 to paragraph (h) of this AD: For ATR42–500 airplanes, additional guidance for the maintenance or inspection program revision may be found in the ATR ATR 42–400/–500 Maintenance Review Board Report, Revision 13, dated November 30, 2011.

Note 2 to paragraph (h) of this AD: For ATR42–200, –300, and –320 airplanes, additional guidance for the maintenance or inspection program revision may be found in the ATR ATR 42–200/–300/–320 Maintenance Review Board Report, Revision 13, dated November 30, 2011.

(i) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (h) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or ATR—GIE Avions de Transport Régional's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2012–0193, dated September 25, 2012, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0080.

(2) For service information identified in this AD, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.* You may view this service information at the FAA,

Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 15, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–01218 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0081; Directorate Identifier 2014–NM–170–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes. This proposed AD was prompted by reports of fluid entry and accumulation in the aft equipment bay. This proposed AD would require modifying the aft equipment bay. We are proposing this AD to prevent excessive quantities of flammable fluid accumulation in the aft equipment bay. Flammable fluid entry and accumulation in the aft equipment bay, in excessive quantities, could exceed safe levels maintained by the drainage and ventilation system.

DATES: We must receive comments on this proposed AD by March 12, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0081; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0081; Directorate Identifier 2014–NM–170–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–25, dated August 7, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes. The MCAI states:

> There have been two reports of fluid entry and accumulation in the aft equipment bay. The leaked fluid in the first incident was fuel and the fluid in the second incident was test dye. Further investigation revealed that leaked fluid from the aft fuel tank drain entered the bay through the slot in the door latch mechanism.
>
> Flammable fluid entry and accumulation in the aft equipment bay, in excessive quantities, could exceed safe levels maintained by the drainage and ventilation system.
>
> Bombardier Inc. has issued several Service Bulletins (SB) to modify the Aft Equipment Bay by installing a cover to the door latch mechanism in order to reduce the risk of fuel entry into it. This [Canadian] AD mandates the incorporation of the applicable Bombardier Inc. SBs to rectify this problem.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0081.

Related Service Information

Bombardier has issued the following service information:

- Bombardier Service Bulletin 700–1A11–52–019, dated March 29, 2012.
- Bombardier Service Bulletin 700–52–042, dated March 29, 2012.
- Bombardier Service Bulletin 700–52–5007, dated March 29, 2012.
- Bombardier Service Bulletin 700–52–6007, dated March 29, 2012.

The service information describes procedures for the modification of the aft equipment compartment door. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 60 airplanes of U.S. registry.

We also estimate that it would take about 8 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about 720 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $84,000, or $1,400 per product.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2015–0081; Directorate Identifier 2014–NM–170–AD.

(a) Comments Due Date

We must receive comments by March 12, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9001 through 9476 inclusive and 9998.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by reports of fluid entry and accumulation in the aft equipment bay. We are issuing this AD to prevent excessive quantities of flammable fluid accumulation in the aft equipment bay. Flammable fluid entry and accumulation in the aft equipment bay, in excessive quantities, could exceed safe levels maintained by the drainage and ventilation system.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Modification

Within 24 months after the effective date of this AD, modify the aft equipment bay, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraphs (g)(1) through (g)(4) of this AD.

(1) For Model BD–700–1A10 airplanes, serial number 9002 through 9312 inclusive, 9314 through 9380 inclusive, and 9384 through 9429 inclusive: Bombardier Service Bulletin 700–52–042, dated March 29, 2012.

(2) For Model BD–700–1A10 airplanes, serial numbers 9381 and 9432 through 9476 inclusive: Bombardier Service Bulletin 700–52–6007, dated March 29, 2012.

(3) For Model BD–700–1A11 airplanes, serial numbers 9127 through 9383 inclusive, 9389 through 9400 inclusive, 9404 through 9431 inclusive, and 9998: Bombardier Service Bulletin 700–1A11–52–019, dated March 29, 2012.

(4) For Model BD–700–1A11 airplanes, serial numbers 9386, 9401, and 9445 through 9474 inclusive: Bombardier Service Bulletin 700–52–5007, dated March 29, 2012.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–25, dated August 7, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0081.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on January 15, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–01217 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–151416–06]

RIN 1545–BG21

Certain Distributions Treated as Sales or Exchanges; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (REG–151416–06) that was published in the **Federal Register** on Monday, November 3, 2014 (79 FR 65151), that prescribe how a partner should measure its interest in a partnership's unrealized receivables and inventory items, and that provide guidance regarding the tax consequences of a distribution that causes a reduction in that interest.

DATES: Written or electronic comments and request for a public hearing for the notice of proposed rulemaking at 79 FR 65151, November 3, 2014, are still being accepted and must be received by February 2, 2015.

FOR FURTHER INFORMATION CONTACT: Allison R. Carmody, at (202) 317–5279 or Frank J. Fisher, at (202) 317–6850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking published Monday, November 3, 2014 (79 FR 65151), is under section 751(b) of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–151416–06) contains errors that are misleading and are in need of clarification.

Correction to Publication

Accordingly, the notice of proposed rulemaking, FR Doc. 2014–25487, beginning on page 65151 in the issue of November 3, 2014, is corrected as follows:

■ 1. On page 65152, in the preamble, second column, twenty-fifth line from the top of the column, the language ''example, Rev. Rul. 84–102 (84–102 CB'' is corrected to read ''example, Rev. Rul. 84–102 (1984–2 CB''.

■ 2. On page 65154, in the preamble, second column, sixth line from the bottom of the second full paragraph, the language ''751(b) in situations in which 751(b)'' is corrected to read ''751(b) in situations in which section 751(b)''.

■ 3. On page 65155, in the preamble, third column, first and second lines from the bottom of the first full paragraph, the language ''must disclose its position on Form 8275, Disclosure Statement.'' is corrected to read ''must disclose its position on Form 8275–R, Regulation Disclosure Statement.''.

§ 1.751–1 [Corrected]

■ 4. On page 65160, second column, sixteenth line of paragraph (b)(2)(ii), the language ''takes into account any section 743 basis'' is corrected to read ''takes into account any section 743(b) basis''.

■ 5. On page 65160, third column, ninth line of paragraph (b)(2)(iii)(A), the language ''taking into account any section 743'' is corrected to read ''taking into account any section 743(b)''.

■ 6. On page 65163, second column, the twenty-fourth through the twenty-sixth lines of paragraph (f), the language ''this section consistently for all partnership sales, exchanges, and distributions, including for any'' is corrected to read ''this section, and proposed § 1.704–1(b)(2)(iv)(f), consistently for all partnership sales, exchanges, and distributions occurring on or after November 3, 2014, including for any''.

■ 7. On page 65165, second column, paragraph (g) *Example 4.* (ii)(B), the eleventh line, the language ''immediately before the distribution are $25'' is corrected to read ''immediately before the distribution is $25''.

§ 1.755–1 [Corrected]

■ 8. On page 65172, second column, paragraph (c)(2)(vi), the twentieth line, the language ''and (v), would have applied if no'' is corrected to read ''or (v), would have applied if no''.

■ 9. On page 65173, first column, paragraph (c)(6) *Example 2.* (vi)(D), the second line, the language ''$9 remaining section 743(b) adjustments is'' is corrected to ''$9 remaining section 743(b) adjustment is''.

■ 10. On page 65173, first column, paragraph (c)(6) *Example 2.* (vi)(D), the eighth line from the bottom of the paragraph, the language ''section 743(b) adjustments is not taken into'' is corrected to ''section 743(b) adjustment is not taken into''.

Martin V. Franks,

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

[FR Doc. 2015–01258 Filed 1–23–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2012–HA–0146]

RIN 0720–AB47

TRICARE; Reimbursement of Long Term Care Hospitals

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: This proposed rule requests public comment on proposed implementation for Long Term Care Hospitals (LTCHs) the statutory provision at title 10, United States Code (U.S.C.), section 1079(j)(2) that TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule sets forth the proposed regulation modifications necessary to implement a TRICARE reimbursement methodology similar to that applicable to Medicare beneficiaries for inpatient services provided by LTCHs.

DATES: Written comments received at the address indicated below by March 27, 2015 will be accepted.

ADDRESSES: You may submit comments, identified by docket number or Regulatory Information Number (RIN) and title, by either of the following methods:

The Web site: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail: Federal Docket Management System Office, Room 3C843, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://*

www.regulations.gov as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ann Fazzini, TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, telephone (303) 676–3803.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Proposed Rule

The purpose of this proposed rule is to publish proposed TRICARE regulation modifications necessary to implement for LTCHs the statutory requirement that for TRICARE institutional services ''payments shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under [Medicare].'' Medicare pays LTCHs using a LTCH Prospective Payment System (PPS) which classifies Long Term Care (LTC) patients into distinct Diagnosis-Related Groups (DRG). The patient classification system groupings are called Medicare Severity Long Term Care Diagnosis Related Groups (MS–LTC–DRGs), which are the same DRGs used under the hospital inpatient PPS, but that have been weighted to reflect the resources required to treat the medically complex patients treated at LTCHs.

TRICARE pays for most hospital care under the CHAMPUS DRG-based payment system, which is similar to Medicare's, but some hospitals are exempt from the CHAMPUS DRG-based payment system. LTCHs are currently exempt from the CHAMPUS DRG-based payment system; they are paid their billed charges or a discount from their billed charges. Paying billed charges is fiscally imprudent and inconsistent with TRICARE's governing statute. Paying LTCHs under a method similar to Medicare's is prudent, practicable, and harmonious with the statute. Our legal authority for this proposed rule is 10 U.S.C. 1079(j)(2).

B. Summary of the Major Provisions of the Proposed Rule

1. *Implementation of a Prospective Payment System Methodology for LTCHs.* TRICARE proposes to reimburse LTCHs for inpatient care using a method similar to Medicare's LTCH PPS using MS–LTC–DRGs. Under the proposed TRICARE LTCH reimbursement method, payment for a TRICARE patient will be made at a predetermined, per-discharge amount for each MS–LTC–DRG. The TRICARE LTCH reimbursement method would include payment for all inpatient operating and capital costs of furnishing covered services (including routine and ancillary services), but not certain pass-through costs (*e.g.*—bad debts, direct medical education, and blood clotting factors).

2. *Transition period.* In the past when implementing new reimbursement systems, TRICARE has offered a transition or phase-in period to buffer revenue reductions experienced by hospitals. For additional information, we refer the reader to the final rule on Sole Community Hospital (SCH) reimbursement (78 FR 48303). The phase-in period for SCHs was provided, in part, to allow hospitals sufficient time to adjust and budget for these reductions. It also provided an incentive for hospitals to remain in the network by allowing a 5 percent difference in payment reductions per year. More importantly, the transition was allowed by TRICARE because, by their nature, SCHs were the only hospitals in specific vicinities, so TRICARE patients were dependent on them. In addition, some SCHs rely heavily on TRICARE patients. Neither of these situations is true for LTCHs.

In analyzing TRICARE data for LTCH admissions, we found reasons to forego a transition or phase-in period. First, LTCHs are not financially dependent on TRICARE beneficiaries. Our data show the average LTCH serving TRICARE beneficiaries had less than four admissions in Fiscal Year (FY) 12. Seventeen LTCHs scattered across eight states had 10 or more TRICARE admissions in FY12 and the vast majority of LTCHs had zero or one TRICARE admission in that same fiscal year. Second, out of the 227 LTCHs that had TRICARE admissions in FY12, about 75 percent of these hospitals admitted four or fewer TRICARE beneficiaries. In reviewing the allowed amount paid by TRICARE to LTCHs, allowed charges for non-TRICARE For Life (TFL) beneficiaries were approximately $71 million in FY12. These allowed amounts were equal to 73 percent of billed charges, indicating that there are significant discounts off of the billed charge that are currently being accepted by LTCHs. Considering the low utilization of LTCHs by TRICARE beneficiaries and the discounts LTCHs are offering, we have concluded that implementation of TRICARE LTCH reimbursement methods similar to Medicare will have little financial impact on LTCHs. As a result, we are foregoing a transition period, but invite comments on this approach.

C. Costs and Benefits

The economic impact of the proposed rule is anticipated to reduce DoD payments to LTCHs, for all TRICARE beneficiaries by approximately $57 million during the first year of implementation.

II. Introduction and Background

A. TRICARE LTCH Reimbursement

Per 32 Code of Federal Regulations (CFR) 199.14(a)(1)(ii)(D)(*4*), LTCHs are currently exempt from the TRICARE DRG-based payment system, just as they were exempt from Medicare's Inpatient Prospective Payment System (IPPS) when the Centers for Medicare and Medicaid Services (CMS) initially implemented its DRG-based payment system. Because LTCHs are exempt from the TRICARE DRG-based payment system, and because there is no alternate TRICARE reimbursement mechanism in 32 CFR Part 199 at this time, LTCH inpatient care provided to TRICARE beneficiaries is currently paid on the lower of a negotiated rate (if a network hospital) or billed charges (if a non-network hospital).

Medicare also created a PPS for LTCHs effective with the cost reporting period beginning on or after October 1, 2002. TRICARE often adopts Medicare's reimbursement methods but delays implementation generally until any transition phase is complete for the Medicare program. CMS included a 5-year transition period when it adopted LTCH PPS for Medicare, under which LTCHs could elect to be paid a blended rate for a set period of time. This transition period ended in 2006. Following the transition phase, Medicare adopted an LTCH-specific DRG system, the MS–LTC–DRG, in 2008. The MS–LTC–DRG is still used as the patient classification system for LTCHs. Given TRICARE's statutory requirement to adopt Medicare's reimbursement methods when practicable, TRICARE is proposing to adopt a reimbursement method similar to Medicare's LTCH PPS for our beneficiaries.

Under 10 U.S.C. 1079(j)(2), the amount to be paid to hospitals, skilled nursing facilities, and other institutional providers under TRICARE, ''shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare.''

Patients with clinically complex problems, such as multiple acute or chronic conditions, may need hospital care for an extended period of time. LTCHs represent a relatively small

number of hospitals (approximately 425 under Medicare), which treat a critically ill population with complex needs.

The MS–LTC–DRG system under Medicare's LTCH PPS classifies patients into distinct diagnostic groups based on clinical characteristics and expected resource needs. The patient classification groupings, which are the same groupings used under the inpatient acute care hospital groupings (*i.e.*, MS–DRGs) are weighted to reflect the resources required to treat the medically complex patients who are treated in LTCHs. By their nature, LTCHs treat patients with comorbidities requiring long-stay, hospital-level care.

For TRICARE, there were approximately 700 non-TFL and 100 TFL LTCH admissions in FY 12 for which TRICARE was the primary payer. The average LTCH serving non-TFL TRICARE beneficiaries had less than four admissions in FY 12. TRICARE non-TFL LTCH-allowed charges were approximately $71 million in FY 12. These allowed amounts are equal to 73 percent of billed charges, indicating that there are significant discounts at LTCHs. We found that the average allowed amount for non-TFL beneficiaries was almost $101,000 during FY 12, which is significantly more than the estimated amount that Medicare would have paid for these discharges (the average Medicare LTCH PPS payment would have been less than $50,000). Thus, using the Medicare LTCH–PPS system would reduce TRICARE-allowed amounts significantly, reducing TRICARE payments by $40 million per year for non-TFL beneficiaries.

For TFL beneficiaries for whom TRICARE was the primary payer, TRICARE paid approximately $23 million in FY 12. In cases where TRICARE is the primary payer, such as when a Medicare beneficiary exhausts his/her day limits, TRICARE is paying billed charges. Reimbursing using methods similar to Medicare LTCH reimbursement would reduce TRICARE payments for TFL beneficiaries by approximately $17 million per year.

Shifting to methods similar to Medicare LTCH reimbursement would reduce TRICARE payments to LTCHs for non-TFL and TFL beneficiaries by $57 million during the first year of implementation.

TRICARE currently pays LTCHs for inpatient care in one of two ways:

(1) Network hospitals: Payment is an amount equal to billed charges less a negotiated discount. The discounted reimbursement is usually substantially greater than what would be paid using the TRICARE DRG method, which TRICARE generally uses to reimburse hospitals for inpatient care; or

(2) Non-network hospitals: Payment is equal to billed charges.

As discussed above TRICARE's current payment method results in TRICARE reimbursing LTCHs substantially more than Medicare does for equivalent inpatient care. A change is needed to conform to the statute.

Under 32 CFR 199.14(a)(l)(ii)(D)(*4*), LTCHs are currently exempt from the TRICARE DRG-based payment system. Based on 10 U.S.C. 1079(j)(2), TRICARE is proposing to adopt a reimbursement method similar to Medicare's LTCH PPS as the methodology to reimburse TRICARE LTCHs.

Establishing a TRICARE LTCH inpatient reimbursement method similar to Medicare is practicable. Even though the beneficiary populations differ between Medicare and TRICARE, we have found that the distribution of LTCH cases by diagnosis groups is similar between TRICARE and Medicare. Additionally, TRICARE has a low volume of admissions to LTCHs, so calculating weights and rates for TRICARE admissions to LTCHs is impracticable. We are able to calculate our own weights for admissions to general hospitals on an annual basis because of the volume of TRICARE admissions to general hospitals, however, it would be difficult to determine a new set of weights based on a small admission population. For example, only five MS–LTC–DRGs had 25 or more TRICARE admissions in FY 12 and only 17 had ten or more TRICARE admissions in that year. Consequently, we are proposing to adopt the methods used currently in Medicare's MS–LTC–DRG reimbursement system except for slight differences in calculating short stay outlier payments; and not adopting the 25 percent threshold payment adjustment policy. TRICARE's proposed adoption of Medicare's MS–LTC–DRG reimbursement system includes adoption of Medicare's interrupted stay policy and high-cost outlier payments.

Short Stay Outlier (SSO). For cases with a very short length of stay, Medicare uses an alternate method of payment. For an SSO discharge, the Medicare payment is based on the least of the following:

- 100 percent of the estimated cost of the case.
- 120 percent of the MS–LTC–DRG specific per diem amount multiplied by the covered length of stay of the particular case.
- The full MS–LTC–DRG amount.
- A blend of the IPPS amount for the same type of case and 120 percent of the MS–LTC–DRG per diem amount (for certain cases with relatively short lengths of stay, the blend percentage for the MS–LTC–DRG per diem portion is zero percent and as such the blended payment under this option is 100 percent of the IPPS amount).

To simplify, and because it is not practicable for TRICARE to adopt Medicare's complex four step process considering our low volume of LTCH claims, we are proposing to adopt the methodology of paying short stay outliers at the lesser of: 1) Their cost (*i.e.*, 100 percent of the estimated cost of the case) or 2) the full MS–LTC–DRG amount. This approach is fair and ensures that LTCH costs will be covered for short stay outlier cases.

25 Percent Threshold Payment Adjustment. In the FY 2005 Inpatient Prospective Payment System (IPPS) Final Rule, the Centers for Medicare & Medicaid Services (CMS) established a special payment adjustment policy for LTCHs as defined by section 1886(d)(1)(B)(iv)(I) of the Social Security Act. This includes LTCHs that are Hospitals-within-Hospitals (HwHs) or satellites of an LTCH that is co-located with a host hospital or on the campus (any facility within 250 yards of the hospital).

This payment adjustment policy is commonly called the ''25 percent rule.'' The 25 percent transfer rule provides a financial penalty to LTCHs that receive more than 25 percent of their patients from any one acute care hospital. Given the low number of TRICARE admissions, this provision is not practicable, and is unnecessary under TRICARE.

We are also aware the Department of Health and Human Services intends to address implementation of Section 1206(a) of the Pathway for SGR Reform Act of 2013 (Public Law 113–67) in the FY 2016 rulemaking process. Section 1206(a) provides for the establishment of patient criteria for ''site neutral'' payment rates under the LTCH PPS. The Department of Defense proposes to defer action on this issue pending review of the final Medicare policy.

B. Pediatric Cases

Our analysis found that the TRICARE and Medicare populations have similar diagnoses and that the estimated TRICARE costs in each MS–LTC–DRG group are similar to those in Medicare. There are very few TRICARE LTCH cases for patients under age 17; however, these pediatric cases have similar diagnoses as other TRICARE LTCH admissions. Therefore, we propose to adopt the same MS–LTC–DRG reimbursement for pediatric

patients as we are for all other TRICARE beneficiaries.

We are inviting comments on this proposal and welcome feedback on whether the MS–LTC–DRG weights are appropriate for pediatric cases. We also welcome options and alternative approaches for LTCH reimbursement for pediatric beneficiaries.

III. Regulatory Impact Analysis

A. Overall Impact

DoD has examined the impacts of this proposed rule as required by Executive Orders (E.O.s) 12866 (September 1993, Regulatory Planning and Review) and 13563 (January 18, 2011, Improving Regulation and Regulatory Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and the Congressional Review Act (5 U.S.C. 804(2)).

1. Executive Order 12866 and Executive Order 13563

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. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any one year).

We estimate that the effects of the LTCH provisions that would be implemented by this rule would not result in LTCH revenue reductions exceeding $100 million in any one year. We estimate that this rulemaking is not ''economically significant'' as measured by the $100 million threshold. However, we have prepared a Regulatory Impact Analysis that, to the best of our ability, presents the costs and benefits of the rulemaking.

2. Congressional Review Act. 5 U.S.C. 801

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. This Notice of Proposed Rule Making (NPRM) is not a major rule under the Congressional Review Act.

3. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals are considered to be small entities, either by being nonprofit organizations or by meeting the Small Business Administration (SBA) identification of a small business (having revenues of $34.5 million or less in any one year). For purposes of the RFA, we have determined that all LTCHs would be considered small entities according to the SBA size standards. Individuals and States are not included in the definition of a small entity. Therefore, this Rule would have a significant impact on a substantial number of small entities. The Regulatory Impact Analysis, as well as the contents contained in the preamble, also serves as the Regulatory Flexibility Analysis.

4. Unfunded Mandates

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $140 million. This Proposed Rule will not mandate any requirements for State, local, or tribal governments or the private sector.

5. Paperwork Reduction Act

This rule will not impose significant additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3502–3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized. We do not anticipate any increased costs to hospitals because of paperwork, billing, or software requirements since we are keeping TRICARE's billing/coding requirements (*i.e.*, hospitals will be coding and filing claims in the same manner as they currently are with TRICARE).

6. Executive Order 13132, ''Federalism''

This rule has been examined for its impact under E.O. 13132, and it does not contain policies that have federalism implications that would 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. Therefore, consultation with State and local officials is not required.

B. Hospitals Included In and Excluded From the Proposed TRICARE LTCH Reimbursement Methodology

The TRICARE LTCH reimbursement system encompasses all TRICARE authorized LTCHs that have inpatient stays for TRICARE beneficiaries except for hospitals in States that are paid by Medicare and TRICARE under a waiver that exempts them from Medicare's inpatient prospective payment system or the CHAMPUS DRG-based payment system, respectively. Currently, only Maryland hospitals operate under such a waiver.

C. Analysis of the Impact of TRICARE LTCH Payment Reform on LTCHs

1. Methodology

We analyzed the impact of TRICARE implementing a new method of payment for LTCHs. The proposed method is very similar to Medicare's LTCH payment method, which uses the Medicare MS–LTC–DRG system. Our analysis compares the payment impact of the new methodology compared to current TRICARE methodology (where TRICARE pays billed charges or discounts off of these billed charges for all LTCH claims).

The data used in developing the quantitative analyses presented below are taken from TRICARE charge and payment data from October 2011–September 2012. Our analysis has several qualifications. First, we drew upon various sources for the data used to categorize hospitals in Table 1, below. We attempted to construct these variables using information from Medicare's FY12 Impact file to verify that each provider was in fact a Medicare LTCH. For individual hospitals, however, some miscategorizations are possible. We were unable to match 18 hospital claims from 7 LTCHs to the FY12 Impact file, and therefore excluded them from the analysis. After we removed the excluded claims which we could not assign payment and hospital classification variables for, we used the remaining hospitals and claims as the basis for our analysis. All Maryland LTCHs were also excluded from the analysis.

Using charge data from 2012, the FY12 Medicare MS–LTC–DRG weights, the FY12 Medicare national base payment rate, the FY12 Medicare high cost outlier fixed threshold, and the FY12 wage index adjustment factors, we

simulated TRICARE payments using the proposed LTCH payment method. We focused the analysis on TRICARE claims where TRICARE was the primary payer because only these TRICARE payments will be affected by the proposed reforms.

2. Effect on Hospitals

Table 1, First Year Impact of TRICARE LTCH proposed rule, below, demonstrates the results of our analysis. This table categorizes LTCHs which had TRICARE inpatient stays in FY12 by various geographic and special payment consideration groups to illustrate the varying impacts on different types of LTCHs. The first column represents the number of LTCHs in FY12 in each category which had inpatient stays in which TRICARE was the primary payer. The second column shows the number of TRICARE discharges in each category. The third and fourth columns show the average allowed amount per discharge paid by TRICARE in FY12, and under the proposed LTCH payment method. The fifth column shows the percentage impact of the policy change by showing the percentage reduction in the proposed allowed amounts relative to the current allowed amounts.

The first row in Table 1 shows the overall impact of the 227 LTCHs included in the analysis. The next three rows of the table contain hospitals categorized according to their geographic location (large urban, other urban, and rural). The second major grouping is by bed-size category, followed by a grouping for TRICARE network status. The fourth grouping shows the LTCHs by regional Census divisions while the final grouping is by LTCH ownership status.

We estimate that in the first year of implementation, TRICARE payments to LTCHs will decrease by 61 percent under the proposed LTCH payment methodology in comparison to the current TRICARE payment methodology for LTCH claims. For all groups of hospitals, payments under the proposed payment methodology would be reduced.

The following discussion highlights some of the changes in payments among LTCH classifications.

Ninety-eight percent of all TRICARE LTCH admissions were to urban LTCHs. Payments would decrease by 61 percent for large urban, 63 percent for other urban, and 58 percent for rural LTCHs.

Very small LTCHs (1–24 beds) would have the least impact; payments would be reduced by 49 percent. The change in payment methodology would have a slightly greater impact on medium-sized LTCHs (50–124 beds), where payments would be reduced by about 64 percent.

The change in LTCH payment methodology would have a larger impact on TRICARE non-network LTCHs than network LTCHs. Payments to non-network LTCHs would decline by 71 percent, in comparison to 56 percent for in-network hospitals. There is a smaller decline in TRICARE payments for network hospitals because these LTCHs provide discounts to TRICARE, which means that their allowed amounts are already lower. We found that network hospitals on average provide a 29 percent discount off billed charges and that almost 77 percent of all TRICARE LTCH discharges are in-network.

LTCHs in various geographic areas will be affected differently due to this change in payment methodology. The two regions with the largest number of TRICARE claims, the South Atlantic and West South Central region, would have an average decrease of 62 and 61 percent respectively, which are very similar to the overall average of 61 percent. LTCHs in the East North Central and New England regions would have the lowest reductions: 52 and 50 percent. Seventy-eight percent of all TRICARE LTCH discharges in FY12 were in proprietary (for-profit) LTCHs, and these facilities would have their allowed amounts reduced by approximately 63 percent. The decline in allowed amounts for voluntary (not-for-profit) LTCHs would be less than for-profit hospitals (57 percent).

First Year Impact of TRICARE LTCH Rule

	Number of Hospitals	Number of Discharges	Allowed per Discharge (Current Policy)	Allowed per Discharge (Medicare Method)	Percent Reduction in Allowed Amounts (Medicare)
All LTCHs	**227**	**799**	**$118,313**	**$45,818**	**61%**
Large Urban	119	452	$130,245	$51,305	61%
Other Urban	99	331	$104,693	$39,254	63%
Rural	9	16	$62,960	$26,583	58%
Beds	**227**	**799**	**$118,313**	**$45,818**	**61%**
1-24	8	15	$70,322	$36,020	49%
25-34	53	133	$110,915	$42,644	62%
35-49	52	158	$102,939	$44,645	57%
50-74	58	241	$122,152	$43,093	65%
75-124	29	129	$128,611	$47,691	63%
125+	27	123	$133,590	$55,324	59%
Network Status	**227**	**799**	**$118,313**	**$45,818**	**61%**
Network	167	615	$98,171	$43,417	56%
Non-Network	60	184	$185,633	$53,841	71%
Region	**227**	**799**	**$118,313**	**$45,818**	**61%**
New England	9	16	$84,165	$42,352	50%
Mid Atlantic	12	17	$174,619	$39,285	78%
South Atlantic	43	225	$143,208	$53,810	62%
East North Central	31	80	$85,300	$40,781	52%
East South Central	19	50	$92,855	$32,717	65%
West North Central	11	26	$120,767	$40,459	66%
West South Central	68	262	$86,930	$34,044	61%
Mountain	22	87	$123,410	$55,947	55%
Pacific	12	36	$274,333	$94,955	65%
Ownership	**227**	**799**	**$118,313**	**$45,818**	**61%**
Proprietary	180	625	$111,926	$41,377	63%
Government Owned	5	12	$60,539	$32,068	47%
Voluntary	42	162	$147,233	$63,968	57%

Note: Excludes 18 LTCH claims from 7 LTCHs where we were unable to match LTCH claims to the FY12 Medicare Impact File

Source: TRICARE FY12 LTCH Claims and the FY12 Medicare Impact File.

3. Review for a Transition Period

We considered whether a transition would be necessary to implement the change in LTCH payment methodology for TRICARE claims. For the following reasons, we have determined, that a transition period is unnecessary.

First, the TRICARE payments to LTCHs will be equal to or, for short stay outlier cases, TRICARE payments may be greater than Medicare's LTCH

payments. TRICARE's short-stay outlier payments will be based on costs, which is at least as generous as Medicare's short-stay outlier payments. The Medicare Payment Advisory Committee (MedPAC) is an independent congressional agency to advise the U.S. Congress on issues affecting the Medicare program. MedPAC's most recent research indicates that Medicare LTCHs have a positive margin. Thus, we believe that paying LTCHs amounts that are at least as generous as Medicare do not require a transition.

Second, the number of TRICARE discharges from LTCHs is very small in comparison to the number of Medicare discharges in LTCHs each year. In FY12, there were 799 discharges to LTCHs in which TRICARE was the primary payer. Medicare, in comparison, had approximately 134,700 discharges to LTCHs in 2010. Thus, in aggregate, the TRICARE LTCH claims are a very small percentage of the industry's claims (about one-half of a percent).

Third, we also found that in FY12 there were only 17 LTCHs with 10 or more TRICARE admissions. For these 17 LTCHs, we found that TRICARE admissions accounted for less than 4 percent of the Medicare discharges at those LTCHs. More importantly, at none of the 17 LTCHs did the TRICARE LTCH discharges (where TRICARE was the primary payer) exceed 5 percent of the LTCH's discharges. Because the number of TRICARE discharges at any one LTCH is so small and such a small portion of their LTCH business, a transition period is not required.

Fourth, for the reasons cited above, we do not think that there will be access problems for TRICARE beneficiaries. In addition, we note that MedPAC has concluded that Medicare beneficiaries have continued access to LTCHs as evidenced by an increasing supply of providers and an increasing number of LTCH stays. Given that the TRICARE LTCH rates will equal or exceed Medicare LTCH rates, we do not anticipate access problems for TRICARE beneficiaries. Further, by statute, hospitals that participate under Medicare are required to agree to accept TRICARE reimbursement.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. In § 199.2, amend paragraph (b) by adding a definition of ''Long Term Care Hospital'' in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Long Term Care Hospital (LTCH). A hospital that is designated by the Centers for Medicare and Medicaid Services (CMS) as a LTCH and meets the applicable requirements established by § 199.6(b)(4)(xviii).

* * * * *

■ 3. In § 199.6, add paragraph (b)(4)(xviii) to read as follows:

§ 199.6 TRICARE—authorized providers.

* * * * *

(b) * * *

(4) * * *

(xviii) *Long Term Care Hospital (LTCH).* LTCHs must meet all the criteria for classification as an LTCH under 42 CFR part 412, subpart O, as well as all of the requirements of this part in order to be considered an authorized LTCH under the TRICARE program.

* * * * *

■ 4. Section 199.14 is amended by revising paragraph (a)(1)(ii)(D)(*4*) and adding paragraph (a)(9) to read as follows:

The revisions and addition read as follows:

§ 199.14 Provider reimbursement methods.

(a) * * *

(1) * * *

(ii) * * *

(D) * * *

(*4*) *Long Term Care Hospitals.* Prior to implementation of the CHAMPUS reimbursement method described in paragraph (a)(9) of this section, a long term care hospital which is exempt from the Medicare prospective payment system is also exempt from the CHAMPUS DRG-based payment system. In order for a long term hospital which does not participate in Medicare to be exempt from the CHAMPUS DRG-based payment system, it must meet the same criteria (as determined by the Director, DHA, or a designee) as required for exemption from the Medicare Prospective Payment System as contained in 42 CFR 412.23.

* * * * *

(9) *Reimbursement for inpatient services provided by an LTCH.* (i) In accordance with 10 U.S.C. 1079(j)(2), TRICARE payment methods for institutional care shall be determined, to the extent practicable, in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. The CHAMPUS–LTC–DRG reimbursement methodology shall be in accordance with Medicare's Medicare Severity Long Term Care Diagnosis Related Groups (MS–LTC–DRGs) as found in regulation at 42 CFR part 412, subpart O. Inpatient services provided in hospitals subject to the Medicare LTCH reimbursement methodology as specified in 42 CFR parts 412 and 413 will be paid in accordance with the provisions outlined in sections 1886(d)(1)(B)(IV) of the Social Security Act and its implementing Medicare regulation (42 CFR parts 412 and 413) to the extent practicable. Under the above governing provisions, CHAMPUS will recognize, to the extent practicable, in accordance with 10 U.S.C. 1079(j)(2), Medicare's MS–LTC–DRG methodology to include, the relative weights, inpatient operating and capital costs of furnishing covered services (including routine and ancillary services), interrupted stay policy, high cost outlier payments, wage adjustments for variations in labor-related costs across geographical regions, cost-of-living adjustments, and updates to the system.

(ii) While CHAMPUS intends to remain as true as possible to Medicare's MS–LTC–DRG methodology, there will be some deviations required to accommodate CHAMPUS' unique benefit structure and beneficiary population as authorized under the provisions of 10 U.S.C.1079(j)(2).

(A) Due to TRICARE's low claim volume admissions to LTCHs, TRICARE will not adopt the 25 percent threshold rule.

(B) Rather than adopting Medicare's four-step process for short-stay outliers, TRICARE shall pay short-stay outliers at the lesser of:

(*1*) One hundred (100) percent of costs; or

(*2*) The full LTCH DRG amount. The 100 percent of costs will be based on the LTCH's billed charge multiplied by the LTCH's most recent cost-to-charge ratio as determined by the Centers for Medicare and Medicaid Services.

(C) The criteria for adopting, modifying, and/or extending deviations and/or adjustments to the MS–LTC–DRG payments shall be issued through CHAMPUS policies, instructions, procedures and guidelines as deemed appropriate by the Director, DHA, or a designee.

(iii) *Exemption.* The TRICARE LTCH reimbursement methodology under this paragraph does not apply to hospitals

paid in States that are paid by Medicare and TRICARE under a waiver that exempts them from Medicare's inpatient prospective payment system or the CHAMPUS DRG-based payment system, respectively.

* * * * *

Dated: January 20, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–01242 Filed 1–23–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0483]

RIN 1625–AA09

Drawbridge Operation Regulation; Chincoteague Channel, Chincoteague, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating schedule that governs the SR 175 Bridge across Lewis Channel and Black Narrows, mile 3.5 at Chincoteague, VA. The proposed change would eliminate the need for the current special operating schedule and return the bridge to open on demand. The proposed change does not include the last consecutive Wednesday and Thursday in July for the annual Pony swim.

DATES: Comments and related material must reach the Coast Guard on or before March 12, 2015.

ADDRESSES: You may submit comments identified by docket number USCG–2014–0483 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Ms. Kashanda Booker, Bridge Specialist; telephone 757–398–6227; email *Kashanda.l.booker@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

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

A. Public Participation and Request for Comments

We encourage you to participate in this proposed rulemaking by submitting comments and related materials. All comments received will be posted, without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG–2014–0483), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2014–0483] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0483) 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.

3. Privacy Act

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

4. Public Meeting

We do not now plan to hold a public meeting. You may submit a request for one using one of the methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register** .

B. Regulatory History and Information

On July 14, 2014 the Coast Guard published a test deviation with request for comments, entitled ''Drawbridge Elizabeth River, Eastern Branch, VA''. 79 FR 40638. The bridge operated under this NPRM's proposed schedule from August 4, 2014 to November 3, 2014. No comments were received.

C. Basis and Purpose

Virginia Department of Transportation (VDOT), who owns and operates SR 175 Bridge across Lewis Channel and Black Narrows, mile 3.5, at Chincoteague, VA has requested to change the existing

bridge regulations, set out at 33 CFR 117.1005. In 2011, the new single-leaf bascule bridge was constructed on a new alignment replacing the former swing-type bridge that was located downstream from the Chincoteague maritime community. The new bridge alignment resulted in boaters having an improved channel access and the number of necessary bridge openings reduced.

The vertical clearance of the new single-span bascule bridge is 15 feet above mean high water in the closed position and unlimited in the open. The horizontal clearance is 60 feet between fender systems.

The current operating schedule allows the draw to open on demand from midnight to 6 a.m., and every one and a half hours from 6 a.m. to midnight (at 6 a.m., 7:30 a.m., 9 a.m., 10:30 a.m., 12 p.m., 1:30 p.m., 3 p.m., 4:30 p.m., 6 p.m., 7:30 p.m., 9 p.m., 10:30 p.m., and midnight); except from 7 a.m., to 5 p.m. on the last consecutive Wednesday and Thursday in July, the draw need not be opened. This has been the regular operating schedule since November, 16, 2006.

Based on the decrease amount of vessel openings, the Chincoteague maritime community and the Accomack County Board of Supervisors favored a less restrictive opening schedule by proposing a test deviation from scheduled openings to an ''on demand'' schedule while still balancing the needs of marine and vehicular traffic. The monthly vessel openings at the SR 175 Bridge submitted by VDOT are as follows:

BRIDGE OPENING COUNTS

APR 2013	MAY 2013	JUNE 2013	JUL 2013	AUG 2013	SEPT 2013	OCT 2013	NOV 2013	DEC 2013	JAN 2014	FEB 2014	MAR 2014	APR 2014
1	4	7	7	7	6	7	3	2	0	0	0	3

The bridge logs revealed that from April 2013 to April 2014, the SR 175 Bridge had experienced only 47 total vessel openings.

The SR 175 Bridge is the only vehicular connection between the mainland and Eastern Shore of Virginia and Chincoteague Island. Tourism is a dominant industry of Chincoteague Island with activities taking place in the Town of Chincoteague, Chincoteague Island and Assateague Island.

D. Discussion of Proposed Rule

This proposed change in the rule will allow for a less restrictive operating schedule while still balancing the needs of the marine and vehicular traffic. The draw of the SR 175 Bridge will open on demand except: from 7 a.m. to 5 p.m. on the last consecutive Wednesday and Thursday in July, the draw need not be opened for the annual Pony swim.

From August 4, 2014, to November 3, 2014, the draw of the SR 175 Bridge, mile 3.5, at Chincoteague, opened on signal in accordance with the general operating regulations set out at 33 CFR 117.5. During this test deviation, VDOT gathered data on vessel openings in hopes of eliminating the current operating schedule for vessel passage.

The monthly vessel openings at the SR 175 Bridge submitted by VDOT are as follows:

BRIDGE OPENING COUNTS

September 2014	October 2014	November 2014
3	5	1

E. Regulatory Analyses

We developed this proposed 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 proposed 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 Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The proposed change is expected to have minimal impact on mariners due to the limited number of requests requiring openings for the past two years and no anticipated change to vessel traffic.

2. Impact on Small Entities

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

This proposed rule will not affect or have a significant economic impact on a substantial number of small entities for the following reasons. There have been only 47 openings in the past two years. Vessels that can safely transit under the bridge (with a mast height less than 15 feet) may do so at any time.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that 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 proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that

question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call 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 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 proposed 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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

8. Taking of Private Property

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides 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 which do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.1005 to read as follows:

§ 117.1005 Chincoteague Channel.

The draw of the SR 175 Bridge, mile 3.5, at Chincoteague shall open on demand; except from 7 a.m. to 5 p.m. on the last consecutive Wednesday and Thursday in July the bridge need not open.

Dated: January 8, 2015.

Stephen P. Metruck,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2015–01333 Filed 1–23–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0033; FRL–9921–78–Region 6]

Approval and Promulgation of Implementation Plans; State of New Mexico; Revisions to the State Implementation Plan; General Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the New Mexico State Implementation Plan (SIP) related to the General Definitions section of the New Mexico SIP that were submitted by the State of New Mexico on June 11, 2009. EPA has evaluated the SIP revisions for New Mexico and determined these revisions are consistent with the requirements of the Clean Air Act (Act or CAA). EPA is proposing approval under section 110 of the Act.

DATES: Written comments should be received on or before February 25, 2015.

ADDRESSES: Comments may be mailed to Ms. Tracie Donaldson, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of

the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Tracie Donaldson, (214) 665–6633; email address *donaldson.tracie@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: January 6, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–00773 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2014–0710; FRL–9921–91–Region 4]

Georgia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Georgia has applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). These changes correspond to certain Federal rules promulgated between July 1, 2007 and June 30, 2011 (also known as RCRA Clusters XVIII through XXI). With this proposed rule, EPA is proposing to grant final authorization to Georgia for these changes.

DATES: Comments must be received in writing by February 25, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2014–0710, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: gleaton.gwen@epa.gov.*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery or Courier:* Deliver your comments to Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the immediate final rule in the ''Rules and Regulations'' section of today's **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8500; fax number: (404) 562–9964; email address: *gleaton.gwen@epa.gov.*

SUPPLEMENTARY INFORMATION: Along with this proposed rule, EPA is publishing an immediate final rule in the ''Rules and Regulations'' section of today's **Federal Register** pursuant to which EPA is authorizing these changes. EPA did not issue a proposed rule before today because EPA believes this action is not controversial and does not expect comments that oppose it. EPA has explained the reasons for this authorization in the direct final rule. Unless EPA receives written comments that oppose this authorization during the comment period, the direct final rule in today's **Federal Register** will become effective on the date it establishes, and EPA will not take further action on this proposal. If EPA receives comments that oppose this action, EPA will withdraw the direct final rule and it will not take effect. EPA will then respond to public comments in a later final rule based on this proposed rule. You may not have another opportunity to comment on these State program changes. If you want to comment on this action, you must do so at this time. For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of today's **Federal Register**.

Dated: January 13, 2015.

Heather McTeer Toney,

Regional Administrator Region 4.

[FR Doc. 2015–01039 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 14–255; RM–11742; DA 15–12]

Radio Broadcasting Services; Shelter Island, New York

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Red Wolf Broadcasting Corporation, proposing to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules, by allotting Channel 277A at Shelter Island, New York, as a first local service. A staff engineering analysis indicates that Channel 277A can be allotted to Shelter Island consistent with the minimum distance separation requirements of the Commission's rules with a site restriction located 12 kilometers (7.5 miles) south of the community. The reference coordinates are 40–57–54 NL and 72–22–59 WL.

DATES: Comments must be filed on or before March 2, 2015, and reply comments on or before March 17, 2015.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Scott Woodworth, Esq., Edinger Associates PLLC, 1875 I Street NW., Suite 500, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 14–255, adopted January 8, 2015, and

released January 9, 2015. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via email *www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

■ 2. In § 73.202, the Table of FM Allotments in paragraph (b), under NEW YORK, is amended by adding an entry for Shelter Island, Channel 277A in alphabetical order to read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) *Table of FM Allotments.*

	Channel No.
* * * * *	
NEW YORK.	
* * * * *	
Shelter Island	277A
* * * * *	

[FR Doc. 2015–01194 Filed 1–23–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140903744–5015–01]

RIN 0648–BE46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 16

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 16 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), as prepared and submitted by the Gulf of Mexico (Gulf) Fishery Management Council (Council). If implemented, this proposed rule would revise the annual catch limit (ACL) for royal red shrimp, remove the royal red shrimp quota, and revise the accountability measures (AMs) for royal red shrimp to remove an inconsistency in the regulations. The intent of this rule is to prevent overfishing of the royal red shrimp resource while helping to achieve optimum yield and reconcile conflicting Federal regulations.

DATES: Written comments must be received on or before February 25, 2015.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2014–0030'' 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-2014-0030,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 16, which includes an environmental impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/shrimp/2014/am16/index.html.*

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

SUPPLEMENTARY INFORMATION: The shrimp fishery in the Gulf is managed under the FMP. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The FMP was established in 1981, and the maximum sustainable yield for royal red shrimp was estimated at 392,000 lb (177.9 mt), tail weight, annually and specified as a fixed annual quota (46 FR 27489, May 20, 1981). This quota has remained in effect since that time. The Federal shrimp permit for the commercial harvest of penaeid shrimp in the Gulf exclusive economic zone (EEZ) has been placed under a moratorium since 2007 (71 FR 56039, September 26, 2006). The Gulf royal red shrimp endorsement is an endorsement to the Gulf Federal shrimp permit that allows Gulf shrimp permit holders to

commercially harvest royal red shrimp in the Gulf EEZ. On January 30, 2012, NMFS implemented regulations developed through the Generic ACL Amendment to multiple fishery management plans, including the Shrimp FMP (December 29, 2011, 76 FR 82044). That amendment included actions to establish the commercial ACL and AM for royal red shrimp. However, the ''no action'' alternatives and discussions in the Generic ACL Amendment incorrectly stated that there were currently no catch limits or AMs for royal red shrimp, even though a quota and in-season quota closure were in the regulations. As a consequence, through the Generic ACL Amendment, both a royal red shrimp ACL and AM were added to the regulations, but the existing quota and in-season quota closure provision were not removed. On March 11, 2014, NMFS published a notice of intent to prepare a supplemental environmental impact statement for Amendment 16 and requested public comment (79 FR 13623).

Federal regulations currently include a royal red shrimp ACL of 334,000 lb (151,000 kg), tail weight, and a quota of 392,000 lb (177.8 mt), tail weight. This rule would remove the royal red shrimp quota and update the ACL to 337,000 lb (152,861 kg), tail weight, which is equal to the acceptable biological catch as recommended by the Council's Scientific and Statistical Committee at its March 2014 meeting.

Federal regulations currently include a royal red shrimp in-season closure if the quota is met or projected to be met, based on in-season monitoring (which functions as an AM), and include an AM that implements in-season monitoring and an ACL closure in the year following any ACL overage. The presence of two AMs in the regulations presents an inconsistency in the management of royal red shrimp. This rule would remove the in-season quota closure associated with the royal red shrimp quota and retain the AM associated with the ACL.

Gulf royal red shrimp commercial landings have not exceeded the proposed ACL of 337,000 lb (152,861 kg), tail weight, in the past 50 years. There has been a decline in the pounds of royal red shrimp landed over the past 10 years, and the number of vessels actively targeting royal red shrimp during that time has been less than 20 vessels, with fewer than 10 vessels landing royal red shrimp in most years. Therefore, there are likely to be no impacts on the Gulf shrimp fishery or the royal red shrimp stock resulting from this rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 16, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble. The Magnuson-Stevens Act provides the basis for this proposed rule.

This proposed rule is expected to directly affect commercial fishermen holding valid or renewable Federal Gulf shrimp permits with accompanying royal red shrimp endorsements. The SBA established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in shellfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $5.5 million (NAICS code 114112, shellfish fishing) for all of its affiliated operations worldwide.

The Federal shrimp permit for the commercial harvest of penaeid shrimp in the Gulf exclusive economic zone (EEZ) has been placed under a moratorium since 2007 (71 FR 56039, September 26, 2006). At the start of the moratorium, 1,933 vessels qualified for and received the shrimp permits. Over time, the number of permitted shrimp vessels has declined, and in 2013 there were 1,546 such permitted vessels. The Gulf royal red shrimp endorsement is an endorsement to the Gulf Federal shrimp permit that allows Gulf shrimp permit holders to commercially harvest royal red shrimp in the Gulf EEZ. From 2008 through 2013, the total number of Gulf royal red shrimp endorsements averaged 344 annually, and as of November 26, 2014, there were 288 such endorsements in issuance.

From 2008 through 2013, the number of vessels with Gulf royal red shrimp endorsements that actually landed royal red shrimp ranged from four to nine and averaged six annually, which is significantly less than the number of vessels issued endorsements for those years. On average, during those years, a vessel with a Gulf royal red shrimp endorsement annually landed 29,688 lb (13,466 kg), tail weight, of royal red shrimp and 101,430 lb (46,008 kg), tail weight, of other shrimp species valued at $170,073 and $428,079, respectively. For the time period, the average vessel generated revenues of $598,152 from all shrimp species. For the period of 2008 through 2013, royal red shrimp accounted for about 17.0 percent to 35.9 percent of all shrimp landings and about 18.7 percent to 44.7 percent of revenues from all shrimp species landed by vessels with royal red shrimp endorsements. All landings are heads off (tail weight) and all dollar values are in 2011 dollars.

Based on the revenue figures above, all vessels expected to be directly affected by this proposed rule are determined for the purpose of this analysis to be small business entities.

Since the recording of Gulf royal red shrimp landings started in 1962, the proposed ACL of 337,000 lb (152,861 kg), tail weight, has never been exceeded. In more recent years (2008–2013), royal red shrimp landings averaged about 168,000 lb (76,204 kg), tail weight, annually. Based on historical and current harvest conditions, it is unlikely that the proposed ACL would be reached or exceeded. As a consequence, the AM for royal red shrimp would also unlikely be triggered. This rule removes an inconsistency by eliminating the royal red shrimp quota and maintaining the ACL for triggering the AM, and would have no effects on the profits of affected shrimp vessels. Therefore, it is expected that the measures contained in this proposed rule would have no effects on the profits of any affected shrimp vessels.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this rule does not implicate the Paperwork Reduction Act.

The information provided above supports a determination that this rule would not have a significant economic impact on a substantial number of small entities. Because this rule, if implemented, is not expected to have a significant economic impact on any

small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Accountability measures, Annual catch limit, Fisheries, Fishing, Gulf of Mexico, Royal Red Shrimp, Shrimp.

Dated: January 20, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

§ 622.57 [Amended]

■ 2. Section 622.57 is removed and reserved.

■ 3. In § 622.58, paragraph (a)(1) is revised to read as follows:

§ 622.58 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(1) *Commercial sector.* If commercial landings, as estimated by the SRD, exceed the commercial ACL, then during the following fishing year, if commercial landings reach or are projected to reach the commercial ACL, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of that fishing year. When the commercial sector is closed, royal red shrimp in or from the Gulf EEZ may not be retained, and the sale or purchase of royal red shrimp taken from the Gulf EEZ is prohibited. This prohibition on sale or purchase during a closure for royal red shrimp does not apply to royal red shrimp that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor. The commercial ACL for royal red shrimp is 337,000 lb (152,861 kg), tail weight.

* * * * *

[FR Doc. 2015–01320 Filed 1–23–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 80, No. 16

Monday, January 26, 2015

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2014–0023]

Changes to the Salmonella and Campylobacter Verification Testing Program: Proposed Performance Standards for Salmonella and Campylobacter in Not-Ready-to-Eat Comminuted Chicken and Turkey Products and Raw Chicken Parts and Related Agency Verification Procedures and Other Changes to Agency Sampling

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing and requesting comment on new pathogen reduction performance standards for *Salmonella* and *Campylobacter* in raw chicken parts and not-ready-to-eat (NRTE) comminuted chicken and turkey products.

The Agency is also announcing its plans to begin sampling raw chicken parts to gain additional information on the prevalence and the microbiological characteristics of *Salmonella* and *Campylobacter* in those products. In addition, FSIS intends to begin an exploratory sampling of raw pork products for pathogens of public health concern, as well as for indicator organisms.

Finally, FSIS is announcing that it plans to use routine sampling throughout the year rather than infrequently sampling on consecutive days to assess whether establishments' processes are effectively addressing *Salmonella* and, where applicable, *Campylobacter* on poultry carcasses and other products derived from these carcasses, including chicken parts and comminuted chicken and turkey product. FSIS intends to perform this assessment using a moving window of sampling results.

FSIS will proceed with implementing the routine sampling of raw chicken parts and the changes to specified verification procedures on the dates announced in this notice. However, FSIS is seeking comments on its implementation strategy as part of its effort to continuously assess and improve the effectiveness of Agency policy.

DATES: Submit comments on or before March 27, 2015. In March 2015, the Agency plans to begin routine sampling of raw chicken parts as one of the several routine verification testing programs. Also, in March 2015, the Agency plans to begin using the moving window approach (explained below) rather than the consecutive day approach for assessing all verification testing.

In March 2015, FSIS intends to begin exploratory sampling of raw pork products. In March 2015, FSIS also intends to begin sampling imported poultry carcasses, imported raw chicken parts, and imported NRTE comminuted chicken and turkey for *Salmonella* and *Campylobacter.* Finally, in March 2015, FSIS will start posting aggregate reports showing the category distribution for comminuted chicken and turkey using historical data and new results based on the proposed standards for comminuted product. As data become available following the new testing that FSIS will begin in March, FSIS will also begin posting aggregate reports showing the category distribution for chicken parts, based on the proposed standards for parts.

After reviewing the comments received on this notice, beginning July 1, 2015, the Agency plans to begin posting individual establishment category information for poultry carcasses.

ADDRESSES: FSIS invites interested persons to submit comments on the new performance standards and other issues identified in the notice for comment. FSIS is not requesting comment on the new testing of imported product, chicken parts, or pork products because FSIS needs to begin this testing to gather additional information, and because FSIS is not assessing whether establishments producing these product meet performance standards at this time. Comments may be submitted by one of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov/.* Follow the on-line instructions at that site for submitting comments.

Mail, CD–ROMs: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 355 E Street SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2014–0023. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or to comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 164–A, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495, or by Fax: (202) 720–2025.

Background

FSIS is responsible for verifying that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and properly labeled and packaged.

Salmonella and *Campylobacter* bacteria are among the most frequent causes of foodborne illness. These bacteria can reside in the intestinal tract of animals, including birds. *Salmonella* and *Campylobacter* contamination of raw poultry products occurs during slaughter operations, as well as during the live-animal rearing process (*e.g.,* on-farm contamination can coat the exterior of the bird and remain attached to the skin). Currently, events that cause contamination of raw carcasses cannot be eliminated through the commercial

production and slaughter practices employed in the United States. Contamination can be minimized, however, with the use of proper sanitary dressing procedures and by the application of antimicrobial interventions during slaughter and thereafter during fabrication of the carcasses into parts and comminuted product.

Salmonella and, to a lesser extent, *Campylobacter* may increase on raw poultry if the product is improperly stored at temperatures conducive to their growth. Moreover, if these pathogens are present on raw poultry, they will survive on the product if the product is not subjected to a full lethality treatment such as thorough cooking before being presented for human consumption. Also, if raw poultry is improperly handled during food preparation, *Salmonella* and *Campylobacter* can cross-contaminate other foods or food contact surfaces.

The *Salmonella* verification testing program began with the Agency's final rule ''Pathogen Reduction; Hazard Analysis and Critical Control Point'' (PR/HACCP Rule), which was issued on July 25, 1996 (61 FR 38805). Among other things, the PR/HACCP Rule set *Salmonella* pathogen reduction performance standards for establishments that slaughter selected classes of food animals or that produce selected classes of raw ground products. FSIS uses the pathogen reduction performance standards to ensure that eligible establishments are consistently controlling or reducing harmful bacteria on raw meat and poultry products.

The microbiological performance standards for the reduction of *Salmonella* in raw products allow FSIS to verify whether establishments have effective process controls to address *Salmonella.* The sample sets were designed to assess the presence of *Salmonella* in a specified number of samples collected daily for a sufficient number of days to discern an establishment's capability to sustain long term process control. For example, the 2011 broiler carcass pathogen reduction performance standard consisted of 51 samples with 5 positive samples being the acceptable limit in the set positive for *Salmonella.* Additionally, FSIS set criteria for which establishments were to be included in the verification testing program. Only broiler establishments that slaughter at least 20,000 birds annually are currently subject to FSIS *Salmonella* sampling and testing. A lower volume of birds would likely be slaughtered intermittently throughout the year rather than daily, and thus it would likely take a year or more to complete a set.

FSIS conducted the Nationwide Microbiological Baseline Data Collection Programs: Raw Chicken Parts Baseline Survey (RCPBS) from January 2012 to August 2012 to estimate the percent positive of various raw chicken parts sampled and the levels of *Salmonella, Campylobacter,* and indicator bacteria on these products. FSIS used this information to estimate national prevalence of the two pathogens on raw chicken parts. An overview of the RCPBS is available at *http://www.fsis.usda.gov/wps/wcm/connect/a9837fc8-0109-4041-bd0c-729924a79201/Baseline_Data_Raw_Chicken_Parts.pdf?MOD=AJPERES.*

Based on available data, about 85 percent of poultry products available to consumers are chicken,[1] and about 80 percent of the chicken product is in the form of raw chicken parts fabricated from broiler carcasses.[2] The amount of chicken parts available from fabricated broiler carcasses is larger than that of turkey carcasses that are fabricated into raw turkey parts and available to consumers. Also, there is more contamination of broiler carcasses with *Salmonella* and *Campylobacter* compared to turkey carcasses. For example, in 2008, FSIS found that broiler carcasses had a *Salmonella* prevalence of 7.5 percent,[3] while in 2009 turkey carcasses had *Salmonella* prevalence of 1.7 percent.[4] Given the higher percentages of these positives in broiler carcasses and higher volume of raw chicken parts produced, FSIS conducted its baseline on chicken parts only.

In the **Federal Register** notice of December 6, 2012, (77 FR 72686), FSIS informed establishments producing NRTE comminuted poultry products [5] that they were required to reassess their Hazard Analysis and Critical Control Point (HACCP) plans for these products. In that same notice, FSIS announced that it would expand its *Salmonella* sampling beyond ground chicken and turkey to include all forms of non-breaded, non-battered comminuted NRTE chicken or turkey products not destined for further processing into ready-to-eat (RTE) products. In addition, FSIS announced that it was moving its microbiological testing for *Salmonella* and *Campylobacter* for these products from a 25-gram test portion to 325 grams. Finally, FSIS explained that it would use the sampling results to determine the prevalence of *Salmonella* and *Campylobacter* in NRTE comminuted chicken and turkey and to develop pathogen reduction performance standards for these products.

FSIS began sampling and testing NRTE comminuted chicken and turkey products on June 1, 2013.[6] FSIS has posted the aggregate results of this testing for all finished products as part of its quarterly *Salmonella* report.[7]

On April 21, 2014, FSIS responded to all relevant comments received on the December 2012 notice. As the April 2014 notice explains, after carefully considering all of the comments, FSIS decided that it would proceed as announced with analyzing the comminuted product testing data to establish pathogen reduction performance standards for NRTE comminuted chicken and turkey as originally planned. FSIS also provided other updates, including the status of HACCP plan reassessments, information on Food Safety Assessments (FSAs) in establishments producing comminuted poultry product, and details on how FSIS intends to evaluate the exploratory testing data and information gathered from surveying its poultry inspection program personnel. A summary report of this survey, the FSIS Poultry Checklist, which also showed that the majority of establishments are not currently applying antimicrobials to raw poultry parts and NRTE comminuted poultry product components, is available on FSIS's Web site at *http://www.fsis.usda.gov/wps/wcm/connect/902e9de8-712c-4d74-a223-c9ef4b37464a/poultry-checklist.pdf?MOD=AJPERES.*

FSIS announced its *Salmonella* Action Plan (SAP) on December 4, 2013.[8] In the plan, FSIS announced that

[1] ERS, *http://www.ers.usda.gov/data-products/food-availability-(per-capita)-data-system.aspx.*

[2] NCC, 2011. Broiler Industry Marketing Survey Report, *http://members.www.nationalchickencouncil.org/wp-content/uploads/2013/02/2011-Broiler-Industry-Survey-Report.pdf.*

[3] FSIS, 2009. The nationwide microbiological baseline data collection program: Young chicken survey: July 2007– June 2008. U. S. Department of Agriculture, Washington D.C.

[4] FSIS, 2010. The nationwide microbiological baseline data collection program: Young turkey survey. August 2008—July 2009. U. S. Department of Agriculture, Washington D.C.

[5] FSIS considers ''NRTE comminuted poultry'' to be any NRTE chicken or turkey product that has been ground, mechanically separated, or hand- or mechanically deboned and further chopped, flaked, minced or otherwise processed to reduce particle size (77 FR 72687).

[6] This sampling and testing for *Salmonella* and *Campylobacter* did not include heat-treated NRTE comminuted chicken or turkey.

[7] *http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/microbiology/quarterly-reports-salmonella.*

[8] *http://www.fsis.usda.gov/salmonella.*

it would complete a risk assessment and develop pathogen reduction performance standards for NRTE comminuted chicken and turkey and raw chicken parts. FSIS also announced in the SAP that it would explore developing a *Salmonella* sampling program for pork products. In March 2015, FSIS intends to begin an exploratory sampling of raw pork products for pathogens of public health concern, as well as for indicator organisms.

Pathogen Reduction Performance Standards

In general, illnesses should be reduced as establishments reduce the occurrence of pathogens on their products. Thus, consistent with the rationale discussed in the March 21, 2011 **Federal Register** notice,[9] reduced illnesses should result from the implementation of pathogen reduction performance standards to reduce the occurrence of pathogens on chickens and turkeys.

The Healthy People 2020 (HP2020) goal is to reduce human illness from *Salmonella* by about 25 percent by the year 2020.[10] In order to meet this objective for all poultry products, the Agency is proposing a pathogen reduction performance standard designed to achieve at least a 30 percent reduction in illnesses from *Salmonella* for chicken parts, comminuted chicken, and comminuted turkey.

The HP2020 goal for *Campylobacter* is to achieve a 33 percent reduction in human illnesses from this pathogen. For chicken parts and comminuted chicken, FSIS is proposing a pathogen reduction performance standard designed to reduce illness from *Campylobacter* by about 33 percent. However, because FSIS found the prevalence for *Campylobacter* in comminuted turkey to be especially low,[11] the highest practical reduction for this product was estimated to be 19 percent. Therefore, for this one product-pathogen pair, comminuted turkey and *Campylobacter,* FSIS is proposing a reduction less than its stated goal. The methods for developing the pathogen reduction performance standards and predictions for the public health effect of those standards are described in Public Health Effects of Raw Chicken Parts and Comminuted Chicken and Turkey Performance Standards (2015 Risk Assessment)(*http://www.fsis.usda.gov/wps/wcm/connect/afe9a946-03c6-4f0d-b024-12aba4c01aef/Effects-Performance-Standards-Chicken-Parts-Comminuted.pdf?MOD=AJPERES*). FSIS used the same methodology to estimate the public health effects for the young chicken and turkey performance standards in 2011.[12]

The 2015 Risk Assessment describes how *Salmonella*- and *Campylobacter*-positive samples will be used to categorize establishments as either meeting or not meeting the applicable performance standard for chicken parts or comminuted chicken or turkey. FSIS used a common analytical framework to estimate the improvements in public health (illnesses averted) associated with six separate pathogen reduction performance standards discussed as options considered in this notice. FSIS, based on the risk assessment predictions, estimated the reductions in salmonellosis and campylobacteriosis cases that would result if establishments made changes in their processes that would reduce the occurrence of these pathogenic bacteria in their products.

Should FSIS finalize these pathogen reduction performance standards, once the Agency begins testing to implement the standards, the risk assessment model presents different scenarios under which the desired percent reduction in salmonellosis cases could be achieved across both chicken parts and comminuted poultry products. The risk assessment model also describes different scenarios under which reductions in *Campylobacter* illnesses could occur.

Furthermore, despite a significant drop (a 9 percent decrease) in human illnesses from *Salmonella* in recent years, salmonellosis remains high in the U.S.[13] About 33 percent of all food related salmonellosis cases are associated with products regulated by FSIS. Of these FSIS-associated illnesses, poultry represents about 58 percent of the cases with 85 percent being associated with chicken and 15 percent being associated with turkey.[14] Of the illnesses from consuming chicken, FSIS estimates that 81 percent were associated with parts, 13 percent were associated with whole carcasses, and 6 percent were associated with comminuted product.[15]

FSIS considered the results of the 2015 Risk Assessment and selected performance standards for specified product-pathogen pairings based on the most likely within-establishment contamination distributions and a 50-percent compliance fraction for establishments not initially meeting the performance standard. Furthermore, FSIS chose, where feasible, performance standards expected to accomplish a reduction in *Salmonella* and *Campylobacter* illnesses on a product-pathogen pair basis of at least 30 percent and 33 percent, respectively.

FSIS chose this objective for product-pathogen pairs for addressing *Salmonella* in FSIS-regulated products as it will help increase the likelihood that the HP2020 national goal of reducing human illness by 25 percent can be met across all poultry products. The proposed pathogen reduction performance standards for *Campylobacter* are also expected to achieve greater than a 30 percent reduction in campylobacteriosis from chicken parts and comminuted chicken, and a 19 percent reduction in illnesses from comminuted turkey.

In combination, FSIS estimates that the implementation of performance standards for chicken products (existing and those proposed in this notice) may result in about a 31 percent reduction in salmonellosis. The estimated combined impact of implementing performance standards for turkey products (existing and those proposed in this notice) is about a nine percent reduction in salmonellosis. The overall estimated impact on salmonellosis is about a 28 percent reduction for chicken and turkey products, thus satisfying the HP 2020 objective of 25 percent.

After it has considered comments received on this notice, FSIS will announce the final standards in the **Federal Register**.

NRTE Comminuted Poultry—Salmonella

For the purpose of developing a pathogen reduction performance standard for *Salmonella* in NRTE comminuted chicken and turkey products, FSIS evaluated the first eight months of data generated by the new sampling and testing program. FSIS chose to initiate development of a proposed standard now, using the first eight months of data, in order to expedite the process for proposing a new standard and for realizing the projected public health benefits from a final standard. FSIS does not expect there to be substantive differences in the first eight months of data compared to the overall outcome of a baseline testing

[9] 76 FR 15282.

[10] Available at *http://www.healthypeople.gov/2020/topicsobjectives2020/objectiveslist.aspx?topicId=14.*

[11] *Public Health Effects of Raw Chicken Parts and Turkey Performance Standards,* 2014. FSIS.

[12] 76 FR 15282; Mar. 14, 2011.

[13] *http://www.cdc.gov/mmwr/pdf/wk/mm6315.pdf.* These surveillance data are for all foods, not just FSIS-regulated foods.

[14] Painter, et al., 2013 available at *http://wwwnc.cdc.gov/eid/article/19/3/11–1866_article.*

[15] Available at *http://www.nationalchickencouncil.org/about-the-industry/statistics/how-broilers-are-marketed/.*

period lasting at least one full year to more fully assess seasonal variation. However, if substantial differences are seen, FSIS could determine the effects of those differences on the standard prior to implementation.

FSIS utilized its MLG 4.08 [16] method to analyze samples of NRTE comminuted chicken and turkey products and parts for *Salmonella.* FSIS also used the 2015 Risk Assessment, which took into account the establishment by establishment incidence of *Salmonella* in NRTE comminuted chicken and turkey products and the predicted illnesses averted as a consequence of reducing the percentage positive of these pathogens. Because it is using an on-going sampling approach, FSIS will be able to calculate national prevalence for *Salmonella* and *Campylobacter* at least on an annual basis.

To obtain a better estimate of the overall prevalence of *Salmonella* and *Campylobacter* than a simple percent positive estimate, FSIS weighted the *Salmonella* and *Campylobacter* percent positive estimates by the production volume of each establishment for which there were sampling results. Using the first eight months of data, the national prevalence for *Salmonella* in NRTE comminuted chicken is about 49 percent and in NRTE comminuted turkey is about 20 percent. The national prevalence for *Campylobacter* in NRTE comminuted chicken is about three percent, and in NRTE comminuted turkey is about one percent.

Given that mechanically separated chicken and turkey are typically not added to NRTE comminuted poultry products, results for these products were not used in developing the *Salmonella* contamination distribution used in the risk assessment or the volume-weighted percent positive prevalence (VWPP) estimates above. It is important to note that the prevalence estimates were determined using the larger 325-gram analytical portion—a 13-fold increase in size from the 25-gram portion used to make prior prevalence determinations.

FSIS is proposing pathogen reduction performance standards that would achieve at least a 30-percent reduction in salmonellosis on a product-pathogen basis as a result of a reduction in exposure of the public to this pathogen when handling and preparing the product for consumption. To achieve this result for NRTE comminuted chicken, FSIS is proposing a pathogen reduction performance standard for *Salmonella* of 13 positives out of 52 samples.

Under this standard, the expected number of illnesses avoided would be about 3,100 (uncertainty interval (UI): [17] 2,000–4,700). Based on the initial eight months of data collected, FSIS estimates that approximately 62 percent of establishments will initially fail the performance standard. As establishments make changes to meet the new performance standard, FSIS estimates that the VWPP of 49 percent from *Salmonella* in comminuted chicken would be reduced to 34 percent. Evidence regarding FSIS's testing to assess whether establishments met the chicken carcass *Salmonella* performance standard suggested an approximate 50-percent increase in the share of industry that met the performance standard after 24 months under the new performance standard.[18] Therefore, FSIS estimates that 50 percent of establishments that initially do not meet the new performance standard will meet it in about two years. FSIS expects the same for all products under the new standards announced in this notice, as further elaborated in the 2015 Risk Assessment.

For NRTE comminuted turkey, FSIS is proposing a performance standard that would achieve at least a 30- percent reduction in salmonellosis. FSIS is, therefore, proposing a pathogen reduction performance standard for *Salmonella* of seven positives out of 52 samples for NRTE comminuted turkey. With that standard, FSIS estimates that the expected number of illnesses avoided would be about 2,400 (UI: 1,500–3,600). Based on the initial eight months of data collected, approximately 58 percent of establishments are predicted to initially fail the performance standard. As establishments make changes to meet the new performance standard, FSIS estimates that the VWPP of 20 percent of *Salmonella* in NRTE comminuted turkey will be reduced to 14 percent.

Raw Chicken Parts—Salmonella

FSIS developed the *Salmonella* pathogen reduction performance standard for raw chicken parts using the RCPBS data. Based on the baseline results, FSIS estimates that the national prevalence of *Salmonella* in four pound portions of raw chicken parts is about 24 percent with a 95-percent confidence interval between 19 percent and 29 percent.

As stated above, FSIS is proposing at least a 30- percent reduction in salmonellosis from raw chicken parts. To achieve this reduction, FSIS is proposing a pathogen reduction performance standard for *Salmonella* of eight positives out of 52 samples for raw chicken parts. The expected number of illnesses avoided would be about 29,000 (UI: 18,900—45,400). Based on the 2012 chicken parts baseline data, approximately 63 percent of establishments are predicted to initially not meet the performance standard. As establishments make changes to meet the new performance standard, FSIS estimates that the VWPP of 28 percent of *Salmonella* in four pound portions of raw chicken parts (breasts, legs, and wings) will be reduced to 18 percent.

The RCPBS expressly excluded chicken parts that were marinated or injected. The sampling of such products was not originally planned for under the new performance standards. Although during the period of test sampling before the baseline survey began (the shakedown period), FSIS did respond to questions about injected product and identified that products should not be sampled as part of the RCPBS. However, during the baseline survey, inspectors at multiple establishments confirmed that they collected sample parts that had been injected. In addition, since the shakedown, FSIS has determined that the additional handling of injected products marinated in a clear solution likely could cause additional contamination, particularly of the exterior surface of the poultry and that these products look no different to the consumer than products not injected or marinated (when done with a clear solution that may not be evident to the individual preparing the product) other than through the ingredient statement. FSIS will clarify that such products will be sampled as part of the exploratory chicken parts sampling that will start in March 2015 (detailed below). In addition, when the new performance standard for chicken parts is implemented, such products would be subject to sampling. FSIS invites comment on this issue.

Breasts, legs, and wings are the most frequently produced chicken parts in the U.S. (>90 percent).[19] During the

[16] MLG 4.08 is described at *http://www.fsis.usda.gov/wps/wcm/connect/700c05fe-06a2-492a-a6e1-3357f7701f52/MLG-4.pdf?MOD=AJPERES.*

[17] Uncertainty about total illnesses attributed to poultry is simulated to generate 5th and 95th quantile values. These values are multiplied by the predicted effects of the performance standards to generate 5th and 95th percentile values for the annual number of illnesses avoided by the performance standard.

[18] *http://www.sciencedirect.com/science/article/pii/S0956713512002393.*

[19] AMS, Northeast & Southern States Monthly Report Data CY2013.

RCPBS, FSIS sampled additional parts, including necks, giblets, quarter carcasses, and half carcasses. Because of their high production representation, only breasts, legs, and wings were included in the risk assessment, and the draft performance standard will only apply to these parts. However, because the other types of chicken parts are available to consumers and present an exposure potential for both *Salmonella* and *Campylobacter,* FSIS recommends that industry put process controls in place to reduce contamination on these products. In cases where FSIS is concerned about the sanitary conditions in establishments, such as when an establishment is implicated in a food-borne outbreak, FSIS may collect samples of these other chicken parts to ascertain the level of process control in the establishment. When FSIS determines that there is reason to believe that the establishment is failing to maintain sanitary conditions, FSIS will require the establishment to demonstrate improved process control as evidenced by lower contamination incidence in these other chicken parts.

In March 2015, the Agency plans to begin sampling raw chicken parts on an on-going basis. As with all of the pathogen reduction performance standards announced in this notice, FSIS will not begin applying the pathogen reduction performance standard for raw chicken parts until after it has considered comments received on this notice. Meanwhile, FSIS will gain experience in scheduling, collecting, and analyzing raw chicken parts for *Salmonella* and *Campylobacter.* In addition, FSIS will report back to establishments periodically information about the samples collected and found to be positive for *Salmonella* or *Campylobacter.*

FSIS does not expect that data will change substantially and, therefore, does not expect to re-propose the standards based on the new data. However, FSIS will analyze the data and will discuss it in the **Federal Register** notice announcing the final standards. If the data change substantially based on the new testing so that FSIS determines it should change the standards, FSIS would re-propose the standards.

As stated above, FSIS intends to establish its standards for parts based on its sampling of breasts, legs, and wings in the RCPBS and thus to focus its on-going sampling on those parts. However, because some other parts were sampled very infrequently during the 2012 RCPBS, FSIS has decided to also sample additional parts not only to ascertain the level of process control in individual establishments but to estimate that part's contribution to *Salmonella* and *Campylobacter* illnesses. FSIS may ultimately decide that it is necessary to propose additional pathogen reduction performance standards for these other chicken parts, particularly if there is evidence that establishments are not effectively controlling sanitary conditions associated with the production of these parts.

NRTE Comminuted Poultry—Campylobacter

FSIS developed the new standards using the 2015 Risk Assessment, which took into account the establishment by establishment prevalence of *Campylobacter* in NRTE comminuted chicken and turkey products and predicted illnesses averted as a consequence of reducing the prevalence of these pathogens. For the purpose of developing these pathogen reduction performance standards, as stated above, FSIS analyzed the first eight months of data generated from the new sampling program.

For NRTE comminuted chicken, a pathogen reduction performance standard for *Campylobacter* of one positive out of 52 samples should result in about a 37-percent reduction in *Campylobacter* illnesses from that product. The expected number of illnesses avoided would be about 1,300 (UI: 700–2,000). Approximately 24 percent of establishments are predicted to initially not meet the performance standard. As establishments make changes to meet the new performance standard, FSIS estimates that the VWPP of *Campylobacter* of 3.4 percent in NRTE comminuted chicken will be reduced to 2.1 percent.

For NRTE comminuted turkey, the current *Campylobacter* prevalence is so low that the Agency determined a 33-percent reduction could not be feasibly met. Thus, FSIS is proposing a pathogen reduction performance standard for *Campylobacter* for NRTE comminuted turkey of one positive out of 52 samples, which is estimated to result in about a 19-percent reduction in *Campylobacter* illnesses. The expected number of illnesses avoided as a result of such a reduction would be about 500 (UI: 300–700). The risk assessment estimates approximately nine percent of establishments will initially fail the performance standard. As establishments make changes to meet the new performance standard, FSIS estimates that the VWPP of *Campylobacter* of 1.2 in NRTE comminuted turkey will be reduced to about one percent.

FSIS developed the above pathogen reduction performance standards for *Campylobacter* using a direct plating laboratory method of analysis with a 1 ml test portion. FSIS plans to assess establishment performance relative to those standards based on the 1 ml portion size. However, given the lower sensitivity of this test, this fiscal year FSIS will begin concurrently analyzing a subset of NRTE comminuted poultry samples it collects for verification testing using an enrichment method of analysis with a larger test portion, a 30 ml test portion for chickens (MLG 41.03).[20] By increasing the potential for growth and recovery of injured cells, FSIS anticipates the enrichment method of analysis will detect more contamination. FSIS expects to analyze testing data generated from both analytical approaches. This analysis will allow FSIS to determine whether the pathogen reduction performance standards for *Campylobacter* in NRTE comminuted chicken and turkey should be revised from the above proposed standards to standards based on an enrichment method, such as with a 30 ml test portion.

Raw Chicken Parts—Campylobacter

The stated HP2020 national goal for percent reduction in campylobacteriosis cases is 33 percent. Based on the baseline results, FSIS estimates that the national prevalence of *Campylobacter* in four pound portions of raw chicken parts is about 22 percent with a 95-percent confidence interval between 19 percent and 25 percent. To meet a 32-percent reduction in campylobacteriosis, the 2015 Risk Assessment estimated that a pathogen reduction performance standard for *Campylobacter* in raw chicken parts of four positives out of 52 samples[21] would be sufficient. The expected number of illnesses avoided would be about 14,300 (UI: 8,400–23,100). Based on data generated from the 2012 RCPBS, approximately 46 percent of establishments are predicted to fail the performance standard. As establishments make changes to meet the new performance standard, FSIS estimates that the VWPP of 15.5 percent for *Campylobacter* in four pound

[20] More details about the analytical method are available at *http://www.fsis.usda.gov/wps/wcm/connect/0273bc3d-2363-45b3-befb-1190c25f3c8b/MLG-41.pdf?MOD=AJPERES.*

[21] FSIS chose not to reduce the standard to three positives out of 52 samples because it would exceed the HP2020 national goal in excess of 10 percent.

portions of raw chicken parts (breasts, legs, and wings) will be reduced to 10 percent.

legs, and wings) will be reduced to 10 percent.

Product	*Salmonella* prevalence (percent)	*Campylobacter* prevalence (percent)	Maximum acceptable percent positive		Performance standard	
			Salmonella	Campylobacter	Salmonella	Campylobacter
Broiler Carcasses	7.5	10.4	9.8	15.7	5 of 51	8 of 51.
Turkey Carcasses	1.7	0.79	7.1	5.4	4 of 56	3 of 56.
Comminuted Chicken	∧*49	∧*3.4	25.0	1.9	13 of 52	1 of 52.
Comminuted Turkey	∧*19.9	∧*1.2	13.5	1.9	7 of 52	1 of 52.
Chicken Parts	∧*28	∧*15.5	15.4	7.7	8 of 52	4 of 52.

∧ volume-weighted percent positive
* based on eight months of data

Changes to Related Verification Sampling Procedures

On August 28, 2013, FSIS published in the **Federal Register** a notice announcing changes to its *Salmonella* sampling program for raw beef products (78 FR 53017). In the August 2013 notice, FSIS also announced that it was considering alternatives to set-based sampling for *Salmonella,* including routine sampling (similar to what FSIS uses for Shiga toxin-producing *Escherichia coli* (STEC) sampling) with a moving window approach to assess process control.

On June 5, 2014, in the **Federal Register** notice responding to comments received on the August 2013 **Federal Register** notice, FSIS reiterated that it was considering using on-going scheduled sampling with a moving window approach to assess process control for all *Salmonella* performance standards (79 FR 32436). FSIS is affirming those plans for addressing *Salmonella* and will proceed with implementing those plans. Below, FSIS is providing more explanation of how the change will work when scheduling samples and assessing process control in establishments.

FSIS does not collect imported raw poultry products for *Salmonella* and *Campylobacter* analysis. However, on June 29, 2014, FSIS began analyzing for *Salmonella* all imported raw beef samples it collects for STEC analysis (79 FR 32436; Jun 5, 2014).

Thus, in March 2015, FSIS will begin analyzing for *Salmonella* (and *Campylobacter*) imported raw broiler and turkey carcasses, NRTE comminuted chicken and turkey products, and raw chicken parts. FSIS will use enumeration and serotype data of this testing to identify trends within the sampling data, to determine whether an isolate has a historical association with human illness, and to identify clusters of patterns. In addition, FSIS will post aggregate results of this testing on the FSIS Web site as part of its quarterly report on *Salmonella.*

Salmonella is not an adulterant in raw poultry products. Therefore, a positive test result for *Salmonella* in imported raw poultry product sampled by FSIS import inspection personnel would not result in regulatory control actions at port-of-entry. However, consistent findings of *Salmonella* would raise concern about the effectiveness of the country's food safety system, which could influence the focus and timing of the next audit of the country or result in other appropriate action.

Routine Sampling

Consistent with what it announced in its August 2013 **Federal Register** notice, FSIS will replace its existing *Salmonella* sampling set-approach with a routine sampling approach for all FSIS-regulated products subject to *Salmonella* and *Campylobacter* verification testing. This includes for broiler and turkey carcasses and chicken parts. FSIS has already moved to routine sampling for comminuted poultry, ground beef, and beef manufacturing trimmings.

FSIS has determined that its current set-based *Salmonella* sampling program cannot be used to estimate prevalence for several reasons.[22] First, FSIS's scheduling algorithm disproportionately focuses sample collection based on past performance under the *Salmonella* performance standards. As a result, FSIS may not sample from establishments maintaining consistent process control (Category 1—establishments continuously achieving 50 percent or less of the pathogen reduction performance standard, *i.e.,* meeting or surpassing the standard) for a year or more, while those with highly variable process control (Category 3—establishments that have exceeded the pathogen reduction performance standard, *i.e.,* not meeting the standard) could be scheduled quite often. An establishment with variable process control (Category 2—establishments that have not continuously achieved 50 percent or less of the pathogen reduction performance standard, nor have they exceeded the standard) could be sampled at least annually. Such disproportionate sample collection results in not all establishments having a known probability of being selected for sampling.

Second, once a sample set begins, an establishment is aware that it will be sampled every day the product is produced over the next few months (or longer for smaller plants that produce less frequently) until the set is complete. This knowledge might create a bias because establishments may, intentionally or not, adhere more conscientiously to proper sanitary procedures during this time. This adherence could result in lower numbers of positive *Salmonella* results than would occur otherwise, and any prevalence calculation would be underestimated.

By sampling establishments with a proper frequency and continuously throughout the year, FSIS would be able to calculate the national prevalence of *Salmonella* and *Campylobacter.* FSIS intends to use the ongoing estimation to monitor changes in prevalence over time and to correlate those changes with the effectiveness of Agency policies and procedures.

FSIS will begin using, in lieu of set-based sampling, routine sampling for all products that it samples as part of its *Salmonella* verification sampling program, such as broiler and turkey carcasses, as well as those products for which new standards are contemplated, such as ground beef at the 325-gram sample size and beef manufacturing trimmings. Taking into account risk factors including production volume and past establishment testing

[22] *http://www.fsis.usda.gov/wps/wcm/connect/56b2ccbd-ad57-4311-b6df-289822d28115/Prevalence_Estimates_Report.pdf?MOD=AJPERES.*

performance (*i.e.,* positive *Salmonella* and *Campylobacter* test results), FSIS will sample eligible product from the largest-volume establishments four or five times per month (once per week), on average, and will decrease incrementally the number of samples it collects from establishments producing less volume. FSIS may sample a small number of establishments up to six times per month because the risk factor for that particular volume category/product combination is much higher than that for other combinations. FSIS has described its overall strategy for directing its *Salmonella* and *Campylobacter* sampling resources in its *FY 2015 Annual Sampling Program Plan.*[23]

Some large volume establishments, in particular young turkey slaughter establishments, may produce eligible product for only a few months of the year. Under the existing set-based *Salmonella* sampling program, these establishments rarely complete a sampling set within the year. To assess process control in establishments with concentrated seasonal production, FSIS will intensify sampling at these establishments when in production to obtain the samples needed to assess process control using the moving window. FSIS will use historical sampling data collected from the particular establishment to determine the frequency of sampling.

FSIS does not currently sample eligible product for *Salmonella* from poultry establishments that produce less than 1,000 pounds per day (*i.e.,* very small establishments) or from poultry slaughter establishments that operate under a religious exemption. Therefore, FSIS does not have *Salmonella* or *Campylobacter* data from these establishments for young chickens, turkeys, NRTE comminuted chicken or turkey, and raw chicken parts. At the time that the new pathogen reduction performance standards are implemented, FSIS intends to begin sampling eligible product 3–4 times per year from these establishments. FSIS anticipates that it will begin sampling eligible product that had been exempted from *Salmonella* verification testing in approximately 95 poultry slaughter establishments operating under a religious exemption, and approximately 580 poultry establishments that produce less than 1,000 pounds per day. FSIS expects to eventually implement pathogen reduction performance standards to assess process control at these poultry establishments.

Before FSIS begins using these samples to assess process control at establishments previously excluded from verification sampling, it will provide notice in the **Federal Register**. Meanwhile, FSIS expects to treat the low volume establishments as separate populations and to report how well the population of establishments is performing, including such information as percentage positive, 25th, 50th, and 75th percentile.

Moving Window Approach

Without discrete sampling sets, a different approach is needed to assess process control in establishments within a routine sampling program. When assessing process control under a moving window approach, FSIS intends to evaluate, over a certain period of time, a number of sequential results from a single establishment. Thus, given the fixed timeframe of one year (52 weeks) for which an establishment has been sampled, FSIS would assess the first moving window by evaluating the number of positive samples out of the number of samples taken within the 52-week period. As an example, if an establishment has five *Salmonella* positives within 52 samples (one sample per week for a year), then the establishment passed the performance standard if the performance standard allows five positive samples among 52 samples. When the next sample is taken (week 53, in this example), the moving window would shift forward the fixed timeframe of one year (52 weeks); that is, the original week 1 (and the original first sample) is excluded, while the most recent week is included in the new 52-week moving window. This shifting is repeated with each new week and allows FSIS to continuously assess the process control of an establishment.

FSIS chose a 52-week moving window because it will appropriately average expected fluctuations, for example, those that result from seasonal variation. Nevertheless, FSIS intends to periodically assess its results to determine if adjustments to the 52-week moving window are appropriate.

For highest-volume establishments, FSIS expects to collect 52 samples within the 52-week moving window. In this case, to assess process control (at establishments producing products with performance standards measured in 52 samples), one need only to count the number of positives test results within the 52-week moving window. So, as an example, the proposed performance standard for *Salmonella* in raw chicken parts is eight positives out of 52 samples. Assuming 52 samples were collected from the establishment within a 52-week moving window, if the establishment has eight or fewer *Salmonella* positives within that 52-week timeframe, then it would pass the performance standard. If, on the other hand, the establishment has nine or more *Salmonella* positives within that same 52-week timeframe, then it would fail the performance standard.

The following table demonstrates what FSIS has determined to be the minimum number of samples for each product class by pathogen.

Product	Max Acceptable percent positive		Minimum number of samples	
	Salmonella	Campylobacter	Salmonella	Campylobacter
Broiler Carcass	9.8	15.7	10	10
Turkey Carcass	7.1	5.4	14	19
Comminuted Chicken	25.0	1.9	10	52
Comminuted Turkey	13.5	1.9	10	52
Chicken Parts	15.4	7.7	10	13

Previously, FSIS held the same standard to all eligible establishments within a product class. However, FSIS found that some lower volume establishments would take over a year and sometimes two years to complete a set. Thus, to assess process control in establishments that FSIS samples less often than weekly (*i.e.,* lower volume establishments), FSIS will assess establishment performance (as percent positive) based on the (likely variable) number of samples collected and positive results within the 52-week moving window.

[23] Available at *http://www.fsis.usda.gov/wps/wcm/connect/cb091bde-4900-45ec-8bf5-980dc9496bd1/Sampling-Program-Plan-FY2015.pdf?MOD=AJPERES.*

To illustrate this point, if a small establishment producing raw chicken parts is sampled fewer than 52 times in the 52-week moving window, only 26 times, for example, with three of those samples testing positive for *Salmonella,* 26 will be the denominator while three would be the numerator. This gives the establishment a percent positive of 11.5 percent ($(3/26) \times 100 = 11.5\%$). In this example, the resulting percent positive is less than 15.4 percent, the acceptable percent positive for the proposed performance standard for *Salmonella* in raw chicken parts ($(8/52) \times 100 = 15.4\%$). As such, the establishment would pass the performance standard.

Given that *Salmonella* is not an adulterant in raw product, FSIS determined that any performance standard for *Salmonella* or *Campylobacter* should use one or greater as the acceptable number of positives results. A performance standard of zero maximum acceptable positives is actually a zero-tolerance standard. With one acceptable positive as the numerator, FSIS used the following formula to estimate the minimum number of samples (n) needed to assess process control at an establishment:

$$n = (1/\text{percent positive allowed}) - 100.$$

So, for example, if the performance standard is 5 percent (the percent positive allowed), then $(1/5.0) - 100 = 20$ samples is the minimum number of samples required to assess process control. Although, as another example, if the performance standard is 20 percent then $(1/20.0) - 100 = 5$ samples is the minimum number of samples required to assess process control. However, to decrease the margin of error, FSIS has deemed 10 as the minimum number of samples required to assess process control in an establishment.

FSIS acknowledges that less-than-weekly sampling plans may result in a higher probability of mis-categorizations. However, FSIS chose the above method for assessing process control in lower volume establishments to limit the duration these establishments would remain in Category 2 or 3, if effective corrective actions are taken by the establishment. FSIS requests comment on how it plans to assess process control in lower volume establishments.

A 52-week moving window does not necessarily mean that FSIS must wait one year before it can determine whether an establishment has met a performance standard. Using the broiler carcass performance standard as an example (5 acceptable positives or fewer constitute passing while 6 or more is failing), if a high volume chicken slaughter establishment that is sampled weekly gets six positives in less than 52 weeks, FSIS can deem that establishment to have failed the performance standard no matter how many uncollected samples remain in the establishment's 52-week moving window.

Defining Categories

Under the existing set-based *Salmonella* verification sampling program, FSIS classifies establishment performance relative to the pathogen reduction performance standard (by product class) using the 3-category establishment classification system announced on February 27, 2006 (71 FR 9772). FSIS will continue using this classification system under routine sampling. However, for all products sampled under routine *Salmonella* verification sampling, FSIS plans to modify the time component of those definitions as follows:

I. Category 1. Consistent Process Control: Establishments that have achieved 50 percent or less of the performance standard during all completed 52-week moving windows over the last six months.

II. Category 2. Variable Process Control: Establishments that meet the standard for all completed 52-week moving windows but have results greater than 50 percent of the standard during any completed 52-week moving window over the last six months.

III. Category 3. Highly Variable Process Control: Establishments that have exceeded the performance standard during any completed 52-week moving window over the last six months.

Because of the potential for frequent changes in category status once the first moving window is complete, FSIS felt a time component was needed to provide stability. Upon completion of their first 52-week moving window, FSIS intends to update the category status for each eligible establishment, after the pathogen reduction performance standards are finalized and implemented for that product category. Thereafter, FSIS expects to re-categorize establishments monthly based on their performance over the last six months. Finally, FSIS expects to categorize establishments for *Campylobacter* process control similarly as for *Salmonella.*

With the addition of the 6-month time period, establishments can expect to remain in Category 2 or 3 no shorter than 26 weeks. This lower bound is based on a scenario where an establishment's positive results are clustered at the beginning of the 52-week moving window. Alternatively, if an establishment's positive results are clustered at the end of the 52-week moving window, it would take a minimum of 69 weeks to move out of that category. However, based on analysis of its current set-based verification sampling results, FSIS does not believe these extreme scenarios are likely. FSIS data suggests that positive results would be more evenly distributed throughout the moving window and not clustered.

FSIS has analyzed the 6-month time period and determined it to have minimal impact on the categorization of establishments that are most likely to meet the standard. Our analysis suggests that, depending on the underlying pathogen prevalence at an establishment, the impact could range from no increase in probability to about a 7-fold increase. However, the higher-end increase is predominantly for those establishments already with a low probability of not meeting the standard, so the absolute probability of not meeting the standard remains low. For example, if an establishment had a 0.1 percent chance of not meeting a standard during a 52-week moving window, its probability of not meeting the standard during the 6 months after completion of that moving window would be about 0.7 percent. FSIS requests comment on its planned modifications and the impact of the 6-month time period on the categorization of establishments.

Web-Posting

The Agency's policy of web-posting establishments' process control performance has stimulated improvement in industry performance, as was shown in the Agency's experience after announcing in 2006 that it was considering posting the names of broiler and turkey slaughter establishments in Category 2 and 3. Within two years after the announcement, but before names were actually posted, the number of broiler slaughter establishments that had been in Category 3 decreased by approximately 55 percent. Furthermore, the percentage of broiler slaughter establishments in Category 1 increased by nearly 40 percent. Once FSIS began posting establishment names and their process control performance, the turkey slaughter establishments responded particularly to the challenge that FSIS identified for the industry. The Agency said that if 90 percent of the broiler or turkey industry attained Category 1 status with no establishments in Category 3, FSIS would no longer publish the names or process control performance of the establishments. The

turkey slaughter establishments met the challenge proffered by FSIS, and FSIS stopped publishing the names of the turkey slaughter establishments.

Another example of how the categorization of establishments was used by the industry involved those establishments that produced a product referred to as NRTE stuffed chicken breast that appeared as RTE, such as Chicken Kiev. Multiple illnesses were traced to this product containing raw chicken. As a mitigation strategy for reducing the likelihood of the product being contaminated with *Salmonella,* establishments that produced the product cited a purchase specification requirement for using only chicken breast meat supplied by Category 1 establishments. Because FSIS was not posting the Category 1 status of establishments, industry internally worked out how to address this issue, but there was no verification of this specification provision by FSIS. FSIS noted at the time that without posting Category 1 status, there was confusion by consumers and industry as to whether establishments not listed as Category 2 or Category 3 establishments were actually Category 1 or had not yet been categorized.

Consequently, FSIS intends to post the category status for all eligible establishments because web-posting provides greater transparency, thereby providing the public with the tools and information that it needs to make informed food safety decisions. After reviewing the comments received on this notice, beginning July 1, 2015, the Agency plans to begin web-posting individual establishment category information for chicken and turkey carcasses. FSIS will finish sample sets begun before February 2015 and will not begin any new sampling until March, at which time FSIS will begin sampling chicken and turkey carcasses using the moving window approach, rather than the set approach. FSIS will assess what category establishments are in as of July 1, using combined historical set data and sample results beginning March 2015. In July, FSIS will then post the category establishments are in. For example, once FSIS begins the new sampling approach in March, FSIS may collect 24 samples from March 1 through June 30, 2015, at some establishments. In July, FSIS will assess those 24 results and the previous 28 results assessed under the set approach. Based on those most recent 52 samples, FSIS will assess which category the establishment is in and post that category. FSIS will then monthly re-categorize establishments, based on the last 52 samples, until sufficient data is available to look at the previous six months of windows as described above.

Until July, FSIS will continue to web-post existing Category 3 poultry carcass establishments. In addition, the Agency will post aggregate reports quarterly showing the Category 1/2/3 distribution for each relevant product class subject to FSIS *Salmonella* and *Campylobacter* testing, as applicable. Therefore, FSIS will continue to post aggregate reports for chicken and turkey slaughter establishments showing category distribution for current performance standards for carcasses. In addition, starting in March, FSIS will begin posting aggregate reports showing the category 1/2/3 distribution for chicken parts as data become available, and comminuted chicken and turkey using historical data and new results beginning in March based on the proposed standards. FSIS invites comments on how it plans to web-post establishments.

Agency Actions

FSIS has used the results from its verification testing program as a measure of establishment process control for reducing exposure of the public to pathogens. Under the HACCP regulations, establishments need to control their processes to ensure that public exposure to pathogens is minimized. The Agency has found that using pathogen reduction performance standards in this way is effective in encouraging improved establishment control of pathogens, and that it has resulted in reduced human illnesses.[24]

Under the new standards and under the new moving window approach, when an establishment does not meet a performance standard (*i.e.,* the number of positive samples within a specified timeframe exceeds the maximum acceptable for that product class), FSIS will immediately conduct follow-up sampling. Follow-up samples will be analyzed for both *Salmonella* and *Campylobacter,* where applicable. Because FSIS has experience with follow-up samples associated with the *Escherichia coli* O157 testing program, FSIS will assess whether this approach will work for *Salmonella* and *Campylobacter* testing. In essence, either 16 or eight follow-up samples are collected depending upon the size and production volume of the establishment. FSIS will analyze follow-up sampling data independent of the moving window approach to assess whether the establishment is making or has made changes to its food safety system to improve its process control.

As FSIS does now when establishments do not meet performance standards, FSIS will conduct a for-cause FSA at the establishment that produced the product. In addition, even when establishments meet the performance standards, if FSIS *Salmonella* or *Campylobacter* verification testing data from an establishment show a high number of positives or serotypes of human health significance, FSIS may perform Incident Investigation Team testing or conduct a for-cause FSA that includes collection of samples or take other appropriate actions, such as additional sanitary dressing verification procedures, at the establishment that produced the product.

In May 2010, FSIS issued guidance on how establishments can address Salmonella and Campylobacter in poultry.[25] FSIS is updating this guidance to include additional suggested pre-harvest and post-harvest controls. The Agency intends to make the updated guidance available to the establishments soon. In response to a Government Accountability Office recommendation, FSIS will include information in the guidance on the effectiveness of pre-harvest controls to reduce pathogens in live poultry (USDA Needs to Strengthen its Approach to Protecting Human Health from Pathogens in Poultry Products, September 2014 at *http://www.gao.gov/assets/670/666231.pdf*).

Cost-Benefit Analysis

FSIS has considered the economic effects of new pathogen reduction performance standards for *Salmonella* and *Campylobacter* in raw chicken parts and NRTE comminuted poultry. The full analysis is published on the FSIS Web site as supporting documentation to this notice. FSIS is seeking comment on the accuracy of the information and assumptions used in the cost-benefit analysis. A summary of the analysis is below.

Industry Costs

Establishments will incur costs as they make changes to their processes in order to meet the new standards. FSIS estimates that approximately 63 percent of raw chicken parts producing establishments, 62 percent of NRTE

[24] *http://www.sciencedirect.com/science/article/pii/S0956713512002393; http://online.liebertpub.com/doi/abs/10.1089/fpd.2011.0951.*

[25] The Compliance Guideline for Controlling *Salmonella* and *Campylobacter* in Poultry, Third Edition, May 2010, is available at *http://www.fsis.usda.gov/wps/wcm/connect/6732c082-af40-415e-9b57-90533ea4c252/Compliance_Guide_Controling_Salmonella_Campylobacter_Poultry_0510.pdf?MOD=AJPERES.*

comminuted chicken producing establishments, and 58 percent of NRTE comminuted turkey producing establishments will not meet the new *Salmonella* standards. FSIS estimates that approximately 46 percent of raw chicken parts producing establishments, 24 percent of NRTE comminuted chicken producing establishments, and 9 percent of NRTE comminuted turkey producing establishments will not meet the new *Campylobacter* standards.

Establishments that initially do not meet the standard but aspire to do so will need to make changes to their production processes to lower the prevalence of *Salmonella* and *Campylobacter* in their products. Changes could include pre-harvest interventions, such as vaccination programs, well-timed feed withdrawal, clean and dry litter and transportation, and supplier contract guarantees of pathogen-free flocks. During processing, establishments could add additional cleaning procedures, apply chemical antimicrobials to parts and source materials for comminuted poultry product and provide additional sanitation training to employees. For the purposes of the cost-benefit analysis, FSIS used the cost of adding antimicrobial solutions to poultry parts as a proxy for the costs of interventions and changes that could be implemented. FSIS used this approach based on information from FSAs in response to broiler *Salmonella* sets not meeting the standards and information from the FSIS Poultry Checklist explained above. Through FSAs, FSIS found that the majority of establishments added antimicrobials to the production process as a corrective action, suggesting that an antimicrobial intervention would be the most likely response should an establishment not meet the proposed performance standards. Also, information from the FSIS Poultry Checklist showed that the majority of establishments are not applying antimicrobials to raw poultry parts and source materials for comminuted poultry product.

To account for uncertainty in the proportion of establishments making changes to their production processes in order to meet the new standards, FSIS provided cost estimates for a range (30, 40, and 50 percent) of establishments initially falling short of but eventually meeting the standards in two years. These costs are summarized and annualized over 10 years at a discount rate of 7 percent in Table 1.

TABLE 1—TOTAL INDUSTRY COSTS ANNUALIZED [1]

Compliance level of establishments not meeting standard	Cost component	Primary estimate ($mil)	Low estimate ($mil)	High estimate ($mil)
30%	Capital Equipment	2.15		
	Antimicrobial Solution	6.54	4.61	8.46
	Microbiological Sampling	9.27	6.18	12.36
	HACCP Validation & Training	(*)		
Total Costs	17.96	12.94	22.97	
40%	Capital Equipment	2.86		
	Antimicrobial Solution	8.72	6.14	11.28
	Microbiological Sampling	9.82	6.52	13.05
	HACCP Validation & Training	(*)		(*)
Total Costs	21.40	15.52	27.19	
50%	Capital Equipment	3.58		
	Antimicrobial Solution	10.89	7.68	14.12
	Microbiological Sampling	10.40	6.91	13.81
	HACCP Validation & Training	(*)		
Total Costs		24.87	18.17	31.51

[1] Costs annualized at a discount rate of 7 percent over 10 years.
* Approximately $3,800 at 30% compliance, $5,100 at 40% compliance, and $6,400 at 50% compliance—values too small to display in table.

Agency Costs

FSIS does not expect to incur any additional costs as a result of introducing new performance standards. FSIS allocates a fixed number of samples by product class, sampling project, and pathogen each year. FSIS does not anticipate the need to exclude any of the other testing programs allocated to other product classes. FSIS intends to test carcasses at the level that is needed. In order to accommodate the proposed sampling programs, FSIS will adjust the currently allotted young chicken (''Broiler'') and young turkey sampling programs for *Salmonella* and *Campylobacter* to include testing of raw chicken parts and not-ready-to-eat comminuted chicken and turkey. In this case, samples that could be allocated to test carcasses will be moved closer to the consumer and be used on parts and NRTE comminuted poultry products. Therefore, FSIS will not expend additional resources to implement the proposed performance standards.

Public Health Benefits

As establishments make changes to their production processes and reduce the prevalence of *Salmonella* and *Campylobacter* in chicken parts and NRTE comminuted poultry, public health benefits will be realized in the form of averted illnesses. For each assumed compliance level FSIS estimated the cost savings associated with the percentage reduction in human illnesses as calculated in the 2015 Risk Assessment. The results of this calculation were annualized over 10 years at a discount rate of 7 percent, and are displayed in Table 2.

TABLE 2—PUBLIC HEALTH BENEFITS ANNUALIZED [1]

Compliance level of establishments not meeting the standard (%)	Primary estimate ($mil)	Low estimate ($mil)	High estimate ($mil)
30	50.87	31.84	79.89
40	79.66	50.43	125.89
50	109.10	68.80	171.24

[1] Benefits annualized over 10 years at a discount rate of 7 percent.

Summary of Net Benefits

Table 3 displays the total costs and benefits expected from the implementation of performance standards for chicken parts and comminuted poultry. All values have been annualized over 10 years at a 7 percent discount rate. For all compliance levels considered, the performance standards result in net benefits.

TABLE 3—SUMMARY OF NET BENEFITS [1]

Compliance level of establishments not meeting the standard (%)	Cost/benefit component	Primary estimate ($mil)	Low estimate ($mil)	High estimate ($mil)
30	Industry Costs	(18.0)	(12.9)	(23.0)
	FSIS Costs			
	Public Health Benefits	50.9	31.8	79.9
Net Benefits		32.9	18.9	56.9
40	Industry Costs	(21.4)	(15.5)	(27.2)
	FSIS Costs			
	Public Health Benefits	79.7	50.4	125.9
Net Benefits		58.3	34.9	98.7
50	Industry Costs	(24.9)	(18.2)	(31.5)
	FSIS Costs			
	Public Health Benefits	109.1	68.8	171.2
Net Benefits		84.2	50.6	139.7

[1] All costs and benefits annualized over 10 years at a 7 percent discount rate.

USDA Nondiscrimination 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.

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).

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/federal-register.*

FSIS will also make copies of this **Federal Register** 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 constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail 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 to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC on: January 21, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–01323 Filed 1–23–15; 8:45 am]

BILLING CODE 3410–DM–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Briefing notice.

DATES: *Date and Time:* Friday, January 30, 2015; 9 a.m.–4 p.m. EST.

ADDRESSES: *Place:* 1331 Pennsylvania Ave NW., Suite 1150, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8591.

Hearing-impaired persons who will attend the briefing and require the services of a sign language interpreter should contact Pamela Dunston at (202) 376–8105 or at *signlanguage@usccr.gov* at least seven business days before the scheduled date of the meeting.

SUPPLEMENTARY INFORMATION:

This briefing is open to the public.

Topic: *The State of Civil Rights at Immigration Detention Facilities*

I. Introductory Remarks by Chairman Castro

II. Issue Panel I—9:05 a.m.–10:35 a.m.: Federal Agency Guidelines and Standards of Care

Speakers' Remarks and Questions from Commissioners

III. Issue Panel II—10:35 a.m.–12 p.m.: Private Detention Facilities & Standards of Care

Speakers' Remarks and Questions from Commissioners

IV. LUNCH — 12 p.m.–1 p.m.

V. Issue Panel III—1 p.m.–2:30 p.m.: Legal Challenges Associated with Immigration Detention Facilities

Speakers' Remarks and Questions from Commissioners

VI. Issue Panel IV—2:30 p.m.–4 p.m.: Civil Rights Concerns Associated with Immigration Detention Facilities

Speakers' Remarks and Questions from Commissioners

VII. Adjourn Briefing

Dated: January 22, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–01385 Filed 1–22–15; 11:15 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[12/29/2014 through 1/20/2015]

Firm name	Firm address	Date accepted for investigation	Product(s)
Linemaster Switch Corporation	29 Plaine Hill Road, Woodstock, CT 06281.	.....	The firm manufactures electronic and mechanical foot controls, replacement parts and accessories.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: January 20, 2015.

Michael S. DeVillo,

Eligibility Examiner.

[FR Doc. 2015–01266 Filed 1–23–15; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–2–2015]

Foreign-Trade Zone 42—Orlando, Florida Application for Reorganization under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Greater Orlando Aviation Authority, grantee of FTZ 42, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on January 20, 2015.

FTZ 42 was approved by the FTZ Board on September 29, 1978 (Board Order 137, 43 FR 46887, 10/11/78). The current zone includes the following sites: *Site 1* (168 acres)—Orlando International Airport, Orlando; and, *Site 2* (27 acres, expires 6/30/15)—Lincoln International Corporate Park, 8633 Transport Drive, Orlando.

The grantee's proposed service area under the ASF would be Orange County, Florida, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Orlando Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include

both of the existing sites as ''magnet'' sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones/usage-driven sites are being requested at this time. The application would have no impact on FTZ 42's previously authorized subzone.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is March 27, 2015. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 13, 2015.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: January 20, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–01334 Filed 1–23–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–01–2015]

Foreign-Trade Zone (FTZ) 174—Pima County, Arizona, Notification of Proposed Production Activity, Global Solar Energy, Inc., (Thin Film Photovoltaic Solar Products), Tucson, Arizona

Tuscon Regional Economic Opportunities, Inc., grantee of FTZ 174, submitted a notification of proposed production activity to the FTZ Board on behalf of Global Solar Energy, Inc. (Global Solar), located in Tucson, Arizona. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on January 14, 2015.

A separate application for subzone designation at the Global Solar facility is planned and will be processed under Section 400.31 of the FTZ Board's regulations. The facility is used for the production of thin film photovoltaic solar cells, strings, panels, and photovoltaic-coated stainless steel rolls based on copper-indium-gallium-diselenide (CIGS) technology. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials/components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Global Solar from customs duty payments on the foreign status materials/components used in export production (estimated to be 35% of annual shipments). On its domestic sales, Global Solar would be able to choose the duty rate during customs entry procedures that applies to the thin film photovoltaic solar products (duty free) for the foreign-status materials/components noted below. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: Indium metal shot; gallium metal shot; selenium shot; gallium liquid; copper pellets; diodes; custom junction-boxes (unpotted); monolithic targets; stainless steel substrates; polymer film rolls; ethylene tetrafluoroethylene film rolls; junction-box pottant catalyst; junction-box pottant; and plastic slit input rolls (duty rates range from free to 4.2%). The request indicates that the stainless steel substrates (HTSUS 7220.20.1060 and 7220.20.1080) are subject to an antidumping/countervailing duty (AD/CVD) order. The FTZ Board's regulations (15 CFR 400.14(e)) require that merchandise subject to AD/CVD actions be admitted to the proposed subzone in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is March 9, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Diane Finver at *Diane.Finver@trade.gov* (202) 482–1367.

Dated: January 16, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–01337 Filed 1–23–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD737

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Enforcement Consultants (EC) will hold an online webinar, which is open to the public.

DATES: The webinar will be held Wednesday, February 18, 2015, from 10 a.m. to 12 p.m. Pacific Time.

ADDRESSES: To attend the webinar, visit *http://www.gotomeeting.com/online/webinar/join-webinar.* Enter the webinar ID, which is 102–992–075, and your name and email address (required). Once you have joined the webinar, choose either your computer's audio or select ''Use Telephone.'' If you do not select ''Use Telephone'' GoToMeeting will automatically connect you to the audio using your computer's microphone and speakers (VolP).

If you do not have a headset and speakers, or if there is excessive feedback, please use your telephone for the audio portion of the meeting by dialing this TOLL number +1 (480) 297–0022 (not a toll-free number); then enter the attendee phone audio access code 953–904–034; then enter your audio phone pin (shown after joining the webinar). System Requirements for PC-based attendees: Windows® 7, Vista, or XP; for Mac®-based attendees: Mac OS® X 10.5 or newer; and for mobile attendees: iPhone®, iPad®, Android™ phone or Android tablet (See the GoToMeeting Webinar Apps). You may send an email to Mr. Kris Kleinschmidt or contact him at (503) 820–2425 for technical assistance. A listening station will also be provided at the Pacific Council office.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, Staff Officer; telephone: (503) 820–2424.

SUPPLEMENTARY INFORMATION: The primary purpose of the webinar is to develop a reasonable range of alternatives for the vessel movement monitoring (VMM) agenda item scheduled for the Pacific Council's April 2015 meeting in Rohnert Park, CA. The EC will discuss options to monitor the movement of fishing vessels in the commercial groundfish fishery. The EC will also discuss options for fishpot gear deployment, derelict gear removal options, and fishery declaration enhancements. Other pertinent items that are on the Pacific Council's agenda for the March 2015 meeting in Vancouver, WA may be addressed if time allows. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the EC's intent to take final action to address the emergency. Public comment may be accommodated if time allows, at the discretion of the EC Chair.

Special Accommodations

The listening station at the Pacific Council office is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt, at (503) 820–2280, at least 5 days prior to the meeting date.

Dated: January 21, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–01261 Filed 1–23–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD736

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) ad hoc Ecosystem Work Group (EWG) will hold a webinar, which is open to the public.

DATES: The EWG will hold the webinar on Wednesday, February, 11, 2015, from 1 p.m. until business for the day is complete.

ADDRESSES: To attend the webinar, visit *http://www.gotomeeting.com/online/webinar/join-webinar.* Enter the webinar ID, which is 103–198–035, and your name and email address (required). Once you have joined the webinar, choose either your computer's audio or select ''Use Telephone.'' If you do not select ''Use Telephone'' you will be connected to audio using your computer's microphone and speakers (VolP). It is recommended that you use a computer headset, as GoToMeeting allows you to listen to the meeting using your computer headset and speakers. If you do not have a headset and speakers, you may use your telephone for the audio portion of the meeting by dialing this TOLL number 1–480–297–0021 (not a toll-free number); phone audio access code 932–675–759; audio phone pin shown after joining the webinar. System Requirements for PC-based attendees: Required: Windows® 7, Vista, or XP; for Mac®-based attendees: Required: Mac OS® X 10.5 or newer; and for mobile attendees: iPhone®, iPad®, Android™ phone or Android tablet (See the GoToMeeting Webinar Apps). You may send an email to Mr. Kris Kleinschmidt or contact him at 503–820–2425 for technical assistance. A listening station will also be provided at the Pacific Council office.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Burner, Pacific Council; telephone: (503) 820–2414.

SUPPLEMENTARY INFORMATION: The EWG will discuss agenda items in preparation for the Council's March 2015 meeting in Vancouver, WA. The primary focus will be on Fishery Ecosystem Plan (FEP) Initiative 1: Protecting Unfished and Unmanaged Forage Fish Species. Other topics may include the review of FEP initiatives, the Annual State of the California Current Ecosystem Report, and one or more of the Council's scheduled Administrative Matters. Public comments during the webinar will be received from attendees at the discretion of the EWG Chair.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2425 at least 5 days prior to the meeting date.

Dated: January 21, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–01260 Filed 1–23–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2014–0066]

Notice of Roundtable and Request for Comments on Domestic and International Issues Related to Privileged Communications Between Patent Practitioners and Their Clients

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of roundtable and request for written comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) is seeking input on issues regarding protections from disclosure for communications between patent applicants and Their advisors. The issues include: Whether and to what extent U.S. courts should recognize privilege for communications between foreign patent practitioners and their clients; the extent to which communications between U.S. patent applicants and their non-attorney U.S. patent agents should be privileged in U.S. courts; and whether and to what extent communications between U.S. patent practitioners and their clients should receive privilege in foreign jurisdictions. The USPTO is hosting a roundtable and soliciting written comments to gather information and views on these questions.

DATES: The roundtable will be held on Wednesday, February 18, 2015. The roundtable will begin at 10:00 a.m. and end at 12:30 p.m. Written comments are due by Wednesday, February 25, 2015, for full consideration.

ADDRESSES: The roundtable will be held at the United States Patent and

Trademark Office, Madison Auditorium, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: For further information regarding the roundtable or written comments, please contact Soma Saha or Edward Elliott at the Office of Policy and International Affairs, by telephone at (571) 272–9300, by email at *ACPrivilege@uspto.gov,* or by postal mail addressed to: Mail Stop OPIA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450, ATTN: Soma Saha or Edward Elliott. Please direct all media inquiries to the Office of the Chief Communications Officer, USPTO, at (571) 272–8400.

SUPPLEMENTARY INFORMATION:

1. Background

Innovators who seek patent protection in multiple jurisdictions may engage patent practitioners (attorneys or other registered representatives) in each of those jurisdictions. Currently, there is little consistency in whether the innovators' communications with their patent practitioners will be recognized as privileged by courts. The rules governing privilege vary from country to country and between U.S. jurisdictions. As a result, innovators may be reluctant to share critical information with their patent practitioners because the information may be subject to disclosure in judicial proceedings.

In addition, privilege issues also affect practitioners in the United States. U.S. district courts have inconsistent rules regarding the availability and scope of privilege for communications between clients and their non-attorney U.S. patent agents.

The USPTO is interested in the following topics that focus on three different aspects of privileged communications affecting U.S. entities.

First, the USPTO is interested in the state of U.S. law with respect to protecting communications between patent applicants and their non-U.S. patent practitioners from disclosure in U.S. litigation. The law in the United States differs from jurisdiction to jurisdiction. Some U.S. courts do not protect communications with foreign practitioners under any circumstances. Other courts may protect those communications, but they employ a variety of tests to decide whether and to what extent to grant privilege. Factors that U.S. courts consider include: Whether the foreign practitioner acted under the direction of a U.S. attorney; whether the foreign practitioner would receive privilege under the laws of the country where the patent application was filed; and how the competing interests of all involved jurisdictions are affected. The patchwork of rules between circuits and districts can make it unclear under which circumstances communications are privileged.

Second, the USPTO is interested in how foreign courts treat communications between U.S. patent agents or attorneys and their clients. Problems arise most frequently in common law jurisdictions, some of which do not extend privilege to communications between a patent applicant and foreign patent practitioners. For this reason, Australia and New Zealand, both common law countries, recently passed laws extending privilege to foreign patent practitioners who are authorized to provide patent advice in other countries. Civil law jurisdictions generally impose professional secrecy obligations that function similarly to privilege, but secrecy issues appear to arise less frequently in practice.

Finally, the USPTO is interested in the extent and nature of protection, if any, that U.S. courts accord to communications between clients and their non-attorney U.S. patent agents. In the United States, patent practitioners (whether agents or attorneys) must be registered to practice before the USPTO, *e.g.,* to prosecute patent applications as an applicant's representative. In order to register, both types of practitioners must demonstrate certain legal, scientific, and technical qualifications and pass a registration exam. However, patent agents, unlike patent attorneys, are not required to be separately licensed to practice law. Communications between U.S. patent agents and their clients are treated differently by various U.S. district courts, which follow their own precedents with respect to whether the communications are privileged. Some district courts have denied privilege altogether for patent agents, while other courts have granted privilege to agents only when their work is overseen by an attorney. Still others have recognized privilege only for communications with an agent regarding activities before the USPTO, or only when the communications concern a related adversarial process.

To address the lack of uniformity for potentially privileged communications discussed above, the possibility of developing an international minimum standard for recognizing privileged communications between clients and patent practitioners has been considered in recent years by the Standing Committee on the Law of Patents (SCP) at the World Intellectual Property Organization (WIPO). Those discussions have resulted in a compilation of relevant laws in WIPO member countries on this issue. For more information, please see WIPO document SCP/20/9, ''Confidentiality of Communications between Clients and their Patent Advisors: Compilation of Laws, Practices and other Information,'' available at: *http://www.wipo.int/edocs/mdocs/patent_policy/en/scp_20/scp_20_9.pdf.* This document also contains a summary of U.S. law on this issue. Separately, several industry organizations from the United States and Europe have proposed an international framework that they believe would help mitigate some of the uncertainty that exists in the current system. A copy of their proposed framework can be found at: *https://www.aippi.org/download/onlinePublications/Attachment1SubmissiontoWIPODecember182013_SCP.pdf.*

The USPTO is conducting this public roundtable to solicit comments from interested parties on protecting confidential communications between innovators and their patent practitioner representatives. The number of participants in the roundtable is limited to ensure that all speakers have a meaningful opportunity to present their views. Those who wish to participate in the roundtable should submit a written request, per the instructions below. Members of the public who wish to attend and observe the roundtable need not submit a request.

Anyone may submit written comments for consideration by the USPTO on issues relevant to this notice or raised at the roundtable. The USPTO plans to make the roundtable available via webcast. Webcast information will be available on the USPTO's Web site before the roundtable. The written comments and list of the roundtable participants and their associations will be available from the USPTO's Web site.

2. Issues for Public Comment

The topics and questions listed below reflect particular issues for which the USPTO would appreciate receiving input from interested stakeholders. Responses are not restricted to these topics; comments may provide any information the submitter wishes the USPTO to consider. The questions should not be taken as an indication that the USPTO has taken a position or is predisposed to any particular views.

1. Please explain the impact, if any, resulting from inconsistent treatment of privilege rules among U.S. federal courts. In your answer, please identify if the impact is on communications with

foreign, domestic, or both types of patent practitioners.

2. Please explain how U.S. stakeholders would be impacted by a national standard for U.S. courts to recognize privilege for communications with U.S. patent agents, including potential benefits and costs. If you believe such a standard would be beneficial, please explain what the scope of a national standard should cover.

3. Please explain how U.S. stakeholders would be impacted by a national standard for U.S. courts to recognize privilege for communications with foreign patent practitioners, including potential benefits and costs. If you believe such a standard would be beneficial, please explain what the scope of a standard should cover.

4. Please explain how U.S. stakeholders would be impacted by an international framework establishing minimum privilege standards in the courts of member countries for communications with patent practitioners in other jurisdictions, including potential benefits and costs. If you believe such a framework would be beneficial, please also address the following issues:

a. Please identify which jurisdictions have potential problems and explain the exact nature of the problem in each of those jurisdictions.

b. Please explain what the scope of an international framework for privilege standards should cover. An example of such a framework can be found in Appendix 5 of the following document: *https://www.aippi.org/download/onlinePublications/Attachment1SubmissiontoWIPODecember182013_SCP.pdf.*

5. If a national standard for U.S. courts to recognize privilege for U.S. patent agents or foreign practitioners would be beneficial, please explain how that standard should be established.

a. If Federal legislation would be appropriate, what should such legislation encompass? Please consider whether the Federal tax preparer-client privilege legislation, which statutorily extended attorney-client privilege to non-lawyer practitioners (*e.g.,* certified public accountants) under 26 U.S.C. 7525(a), is an appropriate model and explain why or why not. Are there any noteworthy parallels or differences between Federally-registered accountants and Federally-registered patent agents in either policy or operation?

Commenters are requested to include information identifying how their organization is impacted by privilege issues, *e.g.,* whether they are patent attorneys, agents, owners, licensees, or any other type of entity.

3. Instructions and Information on the Public Roundtable

The roundtable will be held on February 18, 2015, at the United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314. The roundtable will begin at 10:00 a.m. and end at 12:30 p.m. The final agenda and webcast information will be available a week before the roundtable on the USPTO's Office of Policy and International Affairs Web site at *http://www.uspto.gov/ip/global/patents/index.jsp.* Pre-registration will be available from that Web page, or attendees may register at the door.

The event will be divided into two portions. The first part will feature a panel providing background on privileged communications between patent practitioners and their clients. The second part of the event will feature presentations by various stakeholders on privileged communications and their respective positions on this issue. Both portions will explore both domestic and international issues relating to these topics. Here is a preliminary agenda:

Time	Topic
10:00 to 10:05 a.m	Welcome and introduction.
10:05 to 11:00 a.m	Background panel on privileged communications.
11:00 a.m. to 12:30 p.m	Presentations by interested stakeholders.

Speakers: Individuals interested in speaking should submit their name, contact information (telephone number and email address), the organization(s) the person represents, if any, relevant biographical information, and a few brief comments on the topics to be discussed to *ACPrivilege@uspto.gov* by February 10, 2015. Selected speakers will be notified thereafter.

Written Comments: Written comments can be submitted via the **Federal Register**'s Web site, *www.federalregister.gov,* or by email to *ACPrivilege@uspto.gov.* Comments may also be submitted by postal mail addressed to: Mail Stop OPIA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450, ATTN: Edward Elliott. Although comments may be submitted by postal mail, electronic submissions are encouraged. The deadline for receipt of written comments for consideration by the USPTO is February 25, 2015. Written comments should be identified in the subject line of the email or postal mailing as ''Agent-Client Privilege.'' Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

Special Accomodations: The roundtable will be physically accessible to people with disabilities. Individuals requiring accommodation, such as sign language interpretation or other ancillary aids, should communicate their needs to Angel Jenkins at the Office of Policy and International Affairs, by telephone at (571) 272–9300, by email at *angel.jenkins@uspto.gov,* or by postal mail addressed to: Mail Stop OPIA, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450, ATTN: Angel Jenkins, at least seven (7) business days prior to the roundtable.

Dated: January 20, 2015.

Michelle K. Lee,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

[FR Doc. 2015–01241 Filed 1–23–15; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0076, Risk Management Requirements for Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is announcing an opportunity for public comment on the proposed collection of certain information by the

agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to financial resource requirements for derivatives clearing organizations.

DATES: Comments must be submitted on or before March 27, 2015.

ADDRESSES: You may submit comments, identified by ''Risk Management Requirements for Derivatives Clearing Organizations,'' by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Eileen Chotiner, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 418–5467; email: *echotiner@cftc.gov,* and refer to OMB Control No. 3038–0076.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the collection of information listed below.

Title: Risk Management Requirements for Derivatives Clearing Organizations (OMB Control No. 3038–0076). This is a request for extension of a currently approved information collection.

Abstract: Part 39 of the Commission's regulations establishes risk management requirements for derivatives clearing organizations (''DCOs''), which are required to be registered with the Commission. Part 39 also establishes procedures for registration of DCOs. The Commission will use the information in this collection to assess compliance of DCOs and DCO applicants with requirements for DCOs prescribed in the Commodity Exchange Act and Commission regulations.

With respect to the collection of information, the CFTC invites comments on:

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

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request (''ICR'') will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The respondent burden for this collection is estimated to be 10 hours per response.

Respondents/Affected Entities: Derivatives clearing organizations and applicants for registration as a derivatives clearing organization.

Estimated number of respondents: 17.

Estimated total annual burden on respondents: 1,903.

Frequency of collection: On occasion.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: January 20, 2015.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2015–01183 Filed 1–23–15; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0086, Swap Data Repositories; Registration and Regulatory Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on requirements relating to Swap Data Repositories (''SDRs''), including initial registration as an SDR, maintaining registration as an SDR, swap data reporting, and swap data recordkeeping.

DATES: Comments must be submitted on or before March 27, 2015.

ADDRESSES: You may submit comments, identified by ''Renewal of Collection Pertaining to Swap Data Repositories; Registration and Reporting Requirements'' by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov.* Follow the

instructions for submitting comments through the Web site.

• *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

• *Hand Delivery/Courier:* Same as Mail, above.

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

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Benjamin DeMaria, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581; (202) 418–5988; email: *BDeMaria@cftc.gov,* and refer to OMB Control No. 3038–0086.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Swap Data Repositories; Registration and Regulatory Requirements (OMB Control No. 3038–0086). This is a request for extension of a currently approved information collection.

Abstract: Section 728 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010), specifically requires the CFTC to establish certain standards for the governance, registration, and statutory duties applicable to SDRs. The CFTC established these standards in part 49 of the CFTC's regulations.

With respect to the collection of information, the CFTC invites comments on:

• Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

• The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

• Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection request (''ICR'') will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The CFTC estimates that the total annual respondent burden is:

Registration

Respondents/Affected Entities: Swap Data Repositories.

Estimated number of respondents: 6.

Estimated burden per response: 400 hours initially, 45 hours ongoing.

Frequency of collection: Annual and occasional.

Total annual respondent burden: 2,400 hours initially, 270 hours ongoing.

Reporting

Respondents/Affected Entities: Swap Data Repositories.

Estimated number of respondents: 6.

Estimated burden per response: 40,725 hours initially, 15,325 hours ongoing.

Frequency of collection: Ongoing.

Total annual respondent burden: 244,350 hours initially, 91,950 hours ongoing.

Recordkeeping

Respondents/Affected Entities: Swap Data Repositories.

Estimated number of respondents: 6.

Estimated burden per response: 300 hours initially, 254 hours ongoing.

Frequency of collection: Ongoing.

Total annual respondent burden: 1,800 hours initially, 1,524 hours ongoing.

Disclosure

Respondents/Affected Entities: Swap Data Repositories.

Estimated number of respondents: 6.

Estimated burden per response: 100 hours initially, 1 hour ongoing.

Frequency of collection: Occasional.

Total annual respondent burden: 600 hours initially, 6 hours ongoing.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: January 20, 2015.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2015–01207 Filed 1–23–15; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0004]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 27, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Deputy Assistant Secretary of Defense, Military Community and Family Policy, ATTN: Casualty Affairs, 4000 Defense Pentagon, Washington, DC 20301–4000.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Statement of Disposition of Military Remains, DD Form X634; Disposition of Remains Election Statement Initial Notification of Identified Partial Remains, DD Form X635; Disposition of Remains Election Statement Notification of Subsequently Identified Partial Remains, DD Form X3636; Disposition of Organs Retained for Extended Examination, DD Form X637; Advanced Restorative Art of Remains, DD Form X638; Election for Air Transportation of Remains of Casualties Dying in a Theater of Combat Operations, DD Form X639; OMB Control Number 0704–XXXX.

Needs and Uses: The information collection requirement is necessary to obtain the election (as applicable) of the Person Authorized to Direct Disposition (PADD) of the remains of the decedent. These forms were directed by the Secretary of Defense for transparency and standardization of the mortuary procedures as part of the Final Report of the Dover Port Mortuary Independent Review Subcommittee Implementation Plan and 180-day study. The applicable form(s) is included in the individual case file of the decedent.

Affected Public: Business or other for profit; Person Authorized to Direct Disposition (PADD); family members of the deceased.

Annual Burden Hours: 15.

Number of Respondents: 60.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

The respondents are the PADD of the decedent for whom mortuary services as described on the applicable form (DD Form X634; DD Form X635; DD Form X636; DD Form X637; DD Form X638; or DD Form X639) is recommended or required, and the witness to that election. The PADD documents their election, and the PADD and witness sign the applicable form to formalize this process and document the election of the PADD. These forms become a part of the Official Individual Deceased Personnel File. If the PADD does not sign these forms, then the Department cannot provide mortuary and transportation services to the PADD. Currently there is a lack of standardization across the Military Services, as each Service currently utilizes different forms for these elections and they do not all capture the same information even on similar forms. Standardizing the information collected is essential in maintaining the transparency and integrity of the mortuary affairs process.

Dated: January 21, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–01265 Filed 1–23–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Availability (NOA) of a Finding of No Significant Impact (FONSI) for the Environmental Assessment (EA) Addressing Construction and Operation of a General Purpose Warehouse and Improvement and Operation of Four Open Storage Areas at Defense Depot Red River, Texas

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of Availability (NOA) of a Finding of No Significant Impact (FONSI) for the Environmental Assessment (EA) Addressing Construction and Operation of a General Purpose Warehouse and Improvement and Operation of Four Open Storage Areas at Defense Depot Red River, Texas.

SUMMARY: The Defense Logistics Agency (DLA) announces the availability of a FONSI for the proposed action to construct and operate a general purpose warehouse and improve and operate four existing, unimproved open storage areas at Defense Depot Red River, Texas Depot to provide appropriate storage for vehicles, parts, and other materiel. This action is needed because DLA Distribution Red River does not have sufficient warehousing and open storage space, which leads to the degradation of supplies and safety concerns for staff. The environmental assessment was prepared in accordance with the National Environmental Policy Act (NEPA), (1969), the Council on Environmental Quality regulations, Army Regulation AR 200–2, and DLA Regulation 1000.22. The Draft EA and Draft FONSI were made available for a 30-day public review period, which ended on September 22, 2014. The Draft EA and Draft FONSI also were sent to the Texas Parks and Wildlife Department (TPWD) for review under the Wildlife Habitat Assessment Program. No comments were received from the public during the 30-day review period. The TPWD commented that they do not anticipate significant, adverse impacts on threatened and endangered species or other fish and wildlife resources and concur that an Environmental Impact Statement is not warranted for the Proposed Action. The TPWD recommended removing only the minimum amount of vegetation necessary to construct the proposed GPW and associated infrastructure. The FONSI documents the decision of DLA to proceed with the proposed action.

FOR FURTHER INFORMATION CONTACT: Ira Silverberg at 703–767–0705 during normal business hours Monday through Friday, from 8:00 a.m. to 4:30 p.m. (EDT) or by email: *Ira.Silverberg@dla.mil.*

SUPPLEMENTARY INFORMATION:

Determination: DLA has determined that implementation of the Proposed Action will not have a significant effect on the human environment. Human environment was interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. Specifically, no highly uncertain or controversial impacts, unique or unknown risks, or cumulatively significant effects were

identified. Implementation of the Proposed Action will not violate any Federal, state, or local laws. Based on the results of the analyses performed during preparation of the EA, David Rodriguez, Director, DLA Installation Support, concludes that Construction and Operation of a General Purpose Warehouse and Improvement and Operation of Four Open Storage Areas at Defense Depot Red River, Texas, does not constitute a major Federal action significantly affecting the quality of the human environment within the context of NEPA. Therefore, an environmental impact statement for the Proposed Action is not required.

Dated: January 21, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–01297 Filed 1–23–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Scientific Advisory Board Notice of Meeting

AGENCY: Air Force Scientific Advisory Board, Department of the Air Force, DoD.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the United States Air Force (USAF) Scientific Advisory Board (SAB) Winter Board meeting will take place on 27 January 2015 at the Secretary of the Air Force Technical and Analytical Support Conference Center, 1550 Crystal Drive, Arlington, VA 22202. The meeting will occur from 8:00 a.m.–4:30 p.m. on Tuesday, 27 January 2015. The sessions open to the *general public* will be held from 8:00 a.m. to 8:45 a.m. and 10:00 a.m. to 12:00 p.m. on 27 January 2014. The purpose of this Air Force Scientific Advisory Board quarterly meeting is to officially commence FY15 SAB studies, which consist of: (1) Cyber Vulnerabilities of Embedded Systems on Air And Space Systems, (2) Enhanced Utility of Unmanned Air Vehicles In Contested and Denied Environments, (3) Utility of Quantum Systems for the Air Force. In accordance with 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, a number of sessions of the USAF SAB Winter Board meeting will be closed to the public because they will discuss classified information and matters covered by section 5 U.S.C. 552b(c) (1).

Due to difficulties beyond the control of the Department of Defense, the Designated Federal Officer was unable to submit the **Federal Register** notice concerning the January 27, 2015 scheduled meeting of the U.S. Air Force Scientific Advisory Board according to 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, waives the 15-calendar day notification requirement pursuant to 41 CFR 102–3.150(b).

FOR FURTHER INFORMATION CONTACT: The USAF SAB Executive Director and Designated Federal Officer, Lt Col Tilghman Rittenhouse at *tilghman.l.rittenhouse.mil@mail.mil* or 240–612–5502, or the meeting organizer Major Mike Rigoni at *michael.j.rigoni.mil@mail.mil* or 240–612–5504, United States Air Force Scientific Advisory Board, 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762.

Henry Williams,

Civ, DAF, Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2015–01274 Filed 1–23–15; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance, a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection, titled the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Commercialization Survey will satisfy the program requirements of the Small Business Act, including requirements established in the SBIR program reauthorization legislation, Public Law 106–554 and Public Law 107–50. DOE will collect the survey data via Web-enabled software and provide it to the Small Business Administration (SBA) to maintain information about the DOE SBIR/STTR awards issued through the two programs. This data will be provided by DOE based on information collected from SBIR/STTR awardees. This data will be used by DOE, SBA, and Congress to assess the commercial impact of these two programs.

DATES: Comment period ends on February 25, 2015. If you anticipate submitting comments, but find it difficult to do so within the comment period, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4560.

ADDRESSES: Written comments should be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Chris O'Gwin by email at *chris.ogwin@science.doe.gov* or by fax at (301) 903–5488.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* 1910–5166; (2) *Information Collection Request Title:* Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Commercialization Survey; (3) *Type of Request:* New; (4) *Purpose:* The DOE needs this information to satisfy the program requirements of the Small Business Act, including requirements established in the SBIR program reauthorization legislation, Public Law 106–554 and Public Law 107–50. This data will be collected by the DOE and provided to the Small Business Administration (SBA) to maintain information about SBIR/STTR awards issued through the two programs. This data will be provided by DOE based on information collected from SBIR/STTR awardees. This data will be used by DOE, SBA, and Congress to assess the commercial impact of these two programs; (5) *Annual Estimated Number of Respondents:* 2,500; (6) *Annual Estimated Number of Total Responses:* 2,500; (7) *Annual Estimated Number of Burden Hours:* 2,500; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $120,000.

Statutory Authority: Section 9 of the Small Business Act, as amended, codified at 15 U.S.C. 638(g).

Issued in Washington, DC, on January 12, 2015.

Manny Oliver,

SBIR/STTR Programs Director, Office of Science, U.S. Department of Energy.

[FR Doc. 2015–01285 Filed 1–23–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2331–030; *ER14–630–007; ER10–2319–023; ER10–2317–023; ER10–2326–028; ER14–1468–007; ER13–1351–005; ER10–2330–029.*

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA LLC, Cedar Brakes I, L.L.C., KMC Thermo, LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C.

Description: Notice of Non-Material Change in Status of the J.P. Morgan Sellers.

Filed Date: 1/20/15.

Accession Number: 20150120–5468.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER10–3131–004.

Applicants: Condon Wind Power, LLC.

Description: Notice of Non-Material Change in Status of Condon Wind Power LLC.

Filed Date: 1/16/15.

Accession Number: 20150116–5322.

Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER10–3297–005.

Applicants: Powerex Corp.

Description: Update to Non-Material Change in Status Filing of Powerex Corp.

Filed Date: 1/16/15.

Accession Number: 20150116–5313.

Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER11–4423–002.

Applicants: Lockport Energy Associates, L.P.

Description: Notice of Non-Material Change in Status of Lockport Energy Associates, L.P.

Filed Date: 1/16/15.

Accession Number: 20150116–5324.

Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–114–000; *ER15–114–001.*

Applicants: Alterna Springerville LLC.

Description: Supplement to October 16, 2014 and December 8, 2014 Alterna Springerville LLC tariff filings.

Filed Date: 1/16/15.

Accession Number: 20150116–5319.

Comments Due: 5 p.m. ET 2/26/15.

Docket Numbers: ER15–360–001.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing per 35: 2896 Hale Community Energy, LLC GIA Compliance Filing to be effective 5/29/2014.

Filed Date: 1/20/15.

Accession Number: 20150120–5344.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–876–000.

Applicants: Malaga Power, LLC.

Description: Initial rate filing per 35.12 MBR Application to be effective 2/17/2015.

Filed Date: 1/16/15.

Accession Number: 20150116–5295.

Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–877–000.

Applicants: Entergy Nuclear Vermont Yankee, LLC.

Description: Tariff Withdrawal per 35.15: ENVY Notice of Cancellation of Market-Based Rate Tariff to be effective 1/12/2015.

Filed Date: 1/20/15.

Accession Number: 20150120–5000.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–878–000.

Applicants: Occidental Power Services, Inc.

Description: Initial rate filing per 35.12 Proposed Rate Schedule Filing to be effective 4/1/2015.

Filed Date: 1/20/15.

Accession Number: 20150120–5001.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–879–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2446R1 Municipal Energy Agency of Nebraska NITSA and NOA to be effective 12/1/2014.

Filed Date: 1/20/15.

Accession Number: 20150120–5254.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–880–000.

Applicants: Peaker LLC.

Description: Tariff Withdrawal per 35.15: Notice of Cancellation to be effective 1/21/2015.

Filed Date: 1/20/15.

Accession Number: 20150120–5316.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–881–000.

Applicants: PacifiCorp.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Noble Americas Energy Solutions NITSA Rev 8 to be effective 1/1/2015.

Filed Date: 1/20/15.

Accession Number: 20150120–5424.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–882–000.

Applicants: PacifiCorp.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Exelon Generation NITSA to be effective 1/1/2015.

Filed Date: 1/20/15.

Accession Number: 20150120–5426.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–883–000.

Applicants: Southern California Edison Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Unexecuted GIA and Distribut Serv Agmt San Gorgonio Weswinds II, Difwind Farms to be effective 1/20/2015.

Filed Date: 1/20/15.

Accession Number: 20150120–5431.

Comments Due: 5 p.m. ET 2/10/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 20, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–01288 Filed 1–23–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–337–000.

Applicants: Gas Transmission Northwest LLC.

Description: Gas Transmission Northwest LLC Interruptible Transportation Revenue Refund Report under RP15–337.

Filed Date: 1/14/15.

Accession Number: 20150114–5044.

Comments Due: 5 p.m. ET 1/26/15.

Docket Numbers: RP15–338–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 01/14/15 Negotiated Rates—ConEdison Energy Inc. (HUB) 2275–89 to be effective 1/13/2015.

Filed Date: 1/14/15.

Accession Number: 20150114–5167.

Comments Due: 5 p.m. ET 1/26/15.

Docket Numbers: RP15–339–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 01/14/15 Negotiated Rates—Mercuria Energy Gas Trading LLC (HUB)—7540–89 to be effective 1/13/2015.

Filed Date: 1/14/15.

Accession Number: 20150114–5185.

Comments Due: 5 p.m. ET 1/26/15.

Docket Numbers: RP15–340–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 01/14/15 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 1/13/2015.

Filed Date: 1/14/15.

Accession Number: 20150114–5187.

Comments Due: 5 p.m. ET 1/26/15.

Docket Numbers: RP15–341–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 01/14/15 Negotiated Rates—United Energy Trading, LLC (HUB) 5095–89 to be effective 1/13/2015.

Filed Date: 1/14/15.

Accession Number: 20150114–5189.

Comments Due: 5 p.m. ET 1/26/15.

Docket Numbers: RP11–1844–000.

Applicants: Rockies Express Pipeline LLC.

Description: Compliance filing per 154.501: Settlement Refund Report in RP11–1844 et. al. to be effective N/A.

Filed Date: 11/12/14.

Accession Number: 20141112–5295.

Comments Due: 5 p.m. ET 1/26/15.

Docket Numbers: RP13–316–000.

Applicants: Tallgrass Interstate Gas Transmission, L.

Description: Compliance filing per 154.501: TIGT 2014 Annual Reconciliation Filing to be effective N/A.

Filed Date: 12/26/14.

Accession Number: 20141226–5002.

Comments Due: 5 p.m. ET 1/20/15.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceeding

Docket Numbers: RP09–791–002.

Applicants: MoGas Pipeline LLC.

Description: Cost and Revenue Study of MoGas Pipeline LLC under RP09–791.

Filed Date: 12/19/14.

Accession Number: 20141219–5434.

Comments Due: 5 p.m. ET 1/26/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 15, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–01259 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–60–000.

Applicants: Orange and Rockland Utilities, Inc.

Description: Application of Orange and Rockland Utilities, Inc. for order pursuant to section 203 of the Federal Power Act.

Filed Date: 1/16/15.

Accession Number: 20150116–5102.

Comments Due: 5 p.m. ET 2/6/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–30–000.

Applicants: Cross & Company, PLLC.

Description: Molex Incorporated Supplements Notice of EWG Status.

Filed Date: 1/16/15.

Accession Number: 20150116–5159.

Comments Due: 5 p.m. ET 2/6/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2331–029; *ER14–630–006; ER10–2319–022; ER10–2317–022; ER14–1468–006; ER13–1351–004; ER10–2330–028.*

Applicants: J.P. Morgan Ventures Energy Corporation, AlphaGen Power LLC, BE Alabama LLC, BE CA LLC, KMC Thermo, LLC, Florida Power Development LLC, Utility Contract Funding, L.L.C., Cedar Brakes I, L.L.C.

Description: Notice of Non-Material Change in Status of the J.P. Morgan Sellers under ER10–2331, *et. al.*

Filed Date: 1/16/15.

Accession Number: 20150116–5125.

Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER14–2590–001.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing per 35: Compliance Filing per 12/19/14 Order in Docket No. ER14–2590–000 to be effective 11/1/2014.

Filed Date: 1/16/15.

Accession Number: 20150116–5129.

Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER14–2948–001.

Applicants: Tucson Electric Power Company.

Description: Compliance filing per 35: Gila River Power Station Ownership Agreement Compliance Filing to be effective 12/10/2014.

Filed Date: 1/16/15.

Accession Number: 20150116–5164.

Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–295–001.

Applicants: Black Hills/Colorado Electric Utility Company, LP.

Description: Tariff Amendment per 35.17(b): Joint Dispatch Amendment Filing—Response to Staff Letter to be effective 1/1/2015.

Filed Date: 1/15/15.

Accession Number: 20150115–5271.

Comments Due: 5 p.m. ET 2/5/15.

Docket Numbers: ER15–861–000.

Applicants: California Independent System Operator Corporation.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–01–15_EIM_Transition to be effective 2/13/2015.

Filed Date: 1/15/15.

Accession Number: 20150115–5284.

Comments Due: 5 p.m. ET 1/26/15.

Docket Numbers: ER15–862–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Transmission Company of Illinois.

Description: Compliance filing per 35: 2015–01–16_ATXI ATRR Att O Compliance Filing to be effective 1/1/2015.

Filed Date: 1/16/15.

Accession Number: 20150116–5042.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–863–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Revisions to Bylaws Section 8.4 and Membership Agreement section 1.0 to be effective 3/17/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5055.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–864–000.
Applicants: Wheelabrator Baltimore, L.P.
Description: Compliance filing per 35: Compliance to be effective 3/18/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5093.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–865–000.
Applicants: Wheelabrator Bridgeport, L.P.
Description: Compliance filing per 35: Compliance to be effective 3/18/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5094.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–866–000.
Applicants: Empire Generating Co, LLC.
Description: Compliance filing per 35: Compliance to be effective 3/18/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5095.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–867–000.
Applicants: Wheelabrator Frackville Energy Company I.
Description: Compliance filing per 35: Compliance to be effective 3/18/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5096.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–868–000.
Applicants: Wheelabrator North Andover Inc.
Description: Compliance filing per 35: Compliance to be effective 3/18/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5097.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–869–000.
Applicants: Wheelabrator Portsmouth Inc.
Description: Compliance filing per 35: Compliance to be effective 3/18/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5098.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–870–000.
Applicants: Wheelabrator Shasta Energy Company Inc.
Description: Compliance filing per 35: Compliance to be effective 3/18/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5099.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–871–000.
Applicants: Wheelabrator Westchester L.P.
Description: Compliance filing per 35: Compliance to be effective 3/18/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5101.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–872–000.
Applicants: Wisconsin Power and Light Company.
Description: Waiver Request of Wisconsin Power and Light Company.
Filed Date: 1/16/15.
Accession Number: 20150116–5153.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–873–000.
Applicants: Nevada Sun-Peak Limited Partnership.
Description: Notice of Cancellation of Amended Power Purchase Agreement, Rate Schedule FERC No. 2 of Nevada Sun-Peak Limited Partnership.
Filed Date: 1/16/15.
Accession Number: 20150116–5154.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–874–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–01–16_SA 2729 MidAmerican-RPM E&P (J343) to be effective 12/19/2014.
Filed Date: 1/16/15.
Accession Number: 20150116–5170.
Comments Due: 5 p.m. ET 2/6/15.

Docket Numbers: ER15–875–000.
Applicants: Tucson Electric Power Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 230kV Attachment Agreement to be effective 3/17/2015.
Filed Date: 1/16/15.
Accession Number: 20150116–5181.
Comments Due: 5 p.m. ET 2/6/15.

Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES15–9–000.
Applicants: Rockland Electric Company.
Description: Application of Rockland Electric Company for order pursuant to Section 204 of the Federal Power Act.
Filed Date: 1/16/15.
Accession Number: 20150116–5103.
Comments Due: 5 p.m. ET 2/6/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 16, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–01200 Filed 1–23–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9922–00–OCFO; EPA–HQ–OEI–2015–0039]

E-Enterprise for the Environment Portal

AGENCY: Environmental Protection Agency.

ACTION: Notice: request for comment.

SUMMARY: The Environmental Protection Agency (EPA) Office of the Chief Financial Officer is requesting comments on the development of an E-Enterprise for the Environment portal and announcing three public meetings in the form of internet webinars. E-Enterprise is a transformative 21st-century strategy for rethinking how government agencies deliver environmental protection in the United States. Through joint governance at the federal, state, and tribal levels, EPA, the states, and tribes are collaboratively modernizing business processes and driving and sharing innovations. These changes will improve environmental results and enhance services to the regulated community and the public by making government more efficient and effective.

The portal, a Web site that functions as a point of access to information and tools, may provide consolidated entry points for businesses and citizens to efficiently locate, obtain access to, and interact with relevant EPA, state, and tribal environmental programs and resources. EPA and our state and tribal partners ultimately may choose to provide a different name than ''portal'' to better characterize the functionalities provided. The goal is to reduce regulatory burden and optimize information technology resources across government entities. Further detail on

the portal is provided in the Background section below and also at *www2.epa.gov/e-enterprise/e-enterprise-portal.*

EPA is seeking comment on the value of establishing a portal and the functions that it should provide. The EPA will host a series of webinars for the public to learn about the portal, ask questions and learn how to provide comments. While open to any participants, the first webinar on 2/19/15 will be oriented towards states and other co-regulators; the second webinar on 2/23/15 will be for theregulated community; and the third on 3/5/15 will be aimed atthe general public . In parallel with this **Federal Register** notice, EPA will conduct tribal consultation to obtain input from tribes.

DATES: Webinars will be held on February 19, 2015, February 23, 2015 and March 5, 2015 from 1 p.m. to approximately 3 p.m. Eastern Time. Comments may be submitted 90 days from date of publication in the **Federal Register**.

ADDRESSES: The webinars will be conducted via the Internet.

To register for the sessions, please visit *www2.epa.gov/e-enterprise/portal-scoping* or the links below.

February 19, 2015 From 1–3 p.m. EST

If you are a co-regulator, please register here: *https://attendee.gotowebinar.com/rt/1359012128777800450.*

February 23, 2015 From 1–3 p.m. EST

If you are a regulated entity please register here: *https://attendee.gotowebinar.com/rt/2565860280640724481.*

March 5, 2015 From 1–3 p.m. EST

If you are a member of the public, please register here: *https://attendee.gotowebinar.com/rt/983075909101638402.*

After registering you will receive a confirmation email containing information about how to join the Webinar. Registration is strongly encouraged but you may also join the meetings using the links above.

Comments: Submit your written comments, identified by Docket ID No. EPA–HQ–OEI–2015–0039, by *Internet: http://www.regulations.gov:* Follow the online instructions for submitting comments.

Email: OEI.docket@epa.gov.

Instructions: EPA's policy is that all comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or by email. The *http://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 *http://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 electronic storage media 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 FURTHER INFORMATION CONTACT: Anyone interested in further information may contact Shana Harbour at telephone number (202) 566–2959; fax: (202) 501–0648; email address: *harbour.shana@epa.gov;* mailing address Environmental Protection Agency, Office of the Chief Financial Officer, Mail code 2732A, 1200 Pennsylvania Avenue NW., Washington, DC 20460. General information concerning E-Enterprise can be found on the Web at *www2.epa.gov/e-enterprise/e-enterprise-portal.*

SUPPLEMENTARY INFORMATION:

A. Background

Consistent with Executive Orders 13571, 13576, 13563 and 13610 and the 2012 White House Digital Government and Shared Services Strategies, EPA seeks to transform the business of environmental protection. E-Enterprise is a transformative 21st century strategy for rethinking how government agencies deliver environmental protection in the United States. Through joint governance at the federal, state, and tribal levels, EPA, the states, and tribes are collaboratively modernizing business processes and driving and sharing innovations. These changes will improve environmental results and enhance services to the regulated community and the public by making government more efficient and effective. Additional information concerning E-Enterprise can be found at *www2.epa.gov/e-enterprise/e-enterprise-portal.*

A portal is central to the E-Enterprise vision. Ultimately, the portal could provide consolidated entry points for businesses and citizens to efficiently locate, obtain access to, and interact with relevant EPA, state, and tribal environmental programs and web resources. The goal is to integrate information across government entities to provide a seamless experience when accessing EPA or partner portals or applications.

In the delivery of EPA's mission to protect human health and the environment through regulatory implementation and open government initiatives, the EPA seeks to coordinate and streamline interaction within and across federal, state, and tribal environmental agencies. The portal is needed to help address inefficiencies that have grown as environmental programs developed under statutes passed over the course of more than 40 years. The public and the regulated community rightfully expect transactions under these programs, some of which still employ paper-based methods or outdated technologies, to be modern and efficient. A main purpose of the portal is to provide better customer service to the public and to the regulated community. EPA and state regulators will also benefit by having easier access to comprehensive environmental information.

A goal of the portal is to reduce regulatory burden and optimize and share information technology resources. EPA would like to develop the portal with input from the public. This may include feedback on needed enhancements to existing services or information on services that are delivered inefficiently with significant overlap, redundancy, or inconsistency across offices and agencies. Through this notice, consideration of public comments, interaction through the aforementioned webinars, and consultation with tribes, the EPA will gain important information on the needs of stakeholders and how we can best serve the American public in bringing the environmental protection business enterprise into the 21st century.

B. Public Meeting

Does this action apply to me?

This action is directed to the general public. However, this notice may be of particular interest to: persons who submit reporting information to EPA,

such as regulated companies and facilities; academic researchers and non-governmental organizations; information technologists; and members of the public interested in environmental conditions. EPA has not attempted to describe all the specific entities that may have interest in the E-Enterprise portal. If you have any questions regarding this notice, consult Shana Harbour, whose contact information is listed under **FOR FURTHER INFORMATION CONTACT**.

C. Written Comments

What should I consider as I prepare my comments for EPA?

To ensure proper receipt by EPA, please be sure to identify the Docket ID number assigned to this action [EPA–HQ–OEI–2015–0039] in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

Your comments will be particularly helpful if you identify yourself and your sector (regulated entity, non-governmental organization, academic, general public, other (explain). For more information on the E-Enterprise portal, please visit *www2.epa.gov/e-enterprise/e-enterprise-portal.* EPA is particularly interested in comments on the following:

1. How frequently and for what purpose do you visit epa.gov, state and other government environmental Web sites?

2. List the government Web sites you frequently visit for environmental information and identify opportunities for potential integration of information from those Web sites.

3. Cite examples of successful portals or portal-like information systems.

4. Discuss what you consider to be significant obstacles to business information transactions with EPA and state co-regulators.

5. Discuss what you view as significant opportunities for streamlining transactions with EPA or states and how a portal may or may not facilitate them.

6. Identify requirements for capabilities of the portal and for each requirement indicate:

a. The extent to which the requirement involves transactions or aspects of transactions that are common across organizational or programmatic units when reporting to environmental regulatory agencies (*e.g.* registration, logging in, resubmitting common contact or facility information, etc.).

b. Relationship of the requirement to regulatory obligations.

c. Priority of the requirement, and whether the requirement is ''must-have'' or ''nice-to-have.''

d. Urgency of the requirement, as in how soon the capability is needed.

e. Any information on how a portal could reduce the time you spend to report environmental information or process transactions and an estimate of this time.

7. Discuss any positive/negative impacts of using a portal as the required or voluntary means for interacting with EPA and states for business transactions required to fulfill environmental regulatory obligations.

8. In order to provide a more streamlined/personalized/customized experience in the portal for retrieving publically available information, would you be willing to establish an electronic credential (user ID) or reuse an existing ID such as one used on social media?

You may find the following suggestions helpful for preparing your comments:

—Explain your views as clearly as possible.

—Describe any assumptions that you used.

—Provide copies of any technical information and/or data that you used to support your views.

Dated: January 16, 2015.

David A. Bloom,

Acting Chief Financial Officer.

[FR Doc. 2015–01277 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9922–02–OA]

Notification of a Public Teleconference of the Science Advisory Board Chemical Assessment Advisory Committee Augmented for the Ethylene Oxide Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Chemical Assessment Advisory Committee (CAAC) Augmented for the Ethylene Oxide (EtO) Review to discuss its draft report concerning EPA's *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide (Revised External Review Draft—August 2014).*

DATES: The public teleconference will be held on Friday, February 20, 2015 from 1 p.m. to 5 p.m. (Eastern Time).

ADDRESSES: The teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the teleconference may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), via telephone at (202) 564–2050 or email at *yeow.aaron@epa.gov.* General information concerning the SAB can be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: Pursuant to the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App., notice is hereby given that the SAB Augmented CAAC for EtO will hold a public teleconference to discuss its draft report regarding EPA's *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide (Revised External Review Draft—August 2014).* The EPA SAB Staff Office augmented the SAB CAAC with subject matter experts to provide advice through the chartered SAB regarding this review.

The SAB was established pursuant to 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for agency positions and regulations. The SAB is a Federal Advisory Committee chartered under FACA. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

The SAB Augmented CAAC for EtO held a public meeting on November 18–20, 2014 to peer review the EPA's *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide (Revised External Review Draft—August 2014).* The purpose of this public teleconference is for the Augmented CAAC for EtO to discuss its draft report peer reviewing the agency's draft document.

Availability of Meeting Materials: Additional background on this SAB activity, the teleconference agenda, draft report, and other materials for the teleconference will be posted on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Eto%20Inhalation%20Carcinogenicity?OpenDocument.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including

scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments pertaining to the group conducting this SAB activity or meeting materials. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for the SAB to consider. Members of the public wishing to provide comment should contact the Designated Federal Officer for the relevant advisory committee directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker. To be placed on the public speaker list for the teleconference, interested parties should notify Mr. Aaron Yeow, DFO, by email no later than February 13, 2015. *Written Statements:* Written statements for these teleconferences should be received in the SAB Staff Office by the same deadline given above for requesting oral comments. Written statements should be supplied to the DFO via email (acceptable file format: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Yeow at the phone number or email address noted above, preferably at least ten days prior to the teleconferences, to give the EPA as much time as possible to process your request.

Dated: January 14, 2015.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2015–01286 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9922–03–OA]

Request for Nominations of Candidates to the EPA's Science Advisory Board (SAB) Agricultural Science Committee: Additional Time to Nominate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites public nominations of scientific experts to be considered for appointment to the EPA's Science Advisory Board (SAB) Agricultural Science Committee to provide advice to the Chartered SAB regarding matters referred to the SAB that will have a significant direct impact on farming and agriculture-related industries.

DATES: Nominations should be submitted in time to arrive no later than March 30, 2015.

FOR FURTHER INFORMATION CONTACT: Nominators unable to submit nominations electronically as described below may submit a paper copy to Ms. Stephanie Sanzone, Designated Federal Officer (DFO) for the committee, by email at *sanzone.stephanie@epa.gov* or by telephone at 202–564–2067.

SUPPLEMENTARY INFORMATION:

Background: The chartered SAB (the Board) was established in 1978 by the Environmental Research, Development and Demonstration Authorization Act (42 U.S.C. 4365) to provide independent advice to the Administrator on general scientific and technical matters underlying the Agency' policies and actions. Members of the SAB and its subcommittees constitute a distinguished body of non-EPA scientists, engineers, economists, and social scientists that are nationally and internationally recognized experts in their respective fields. Members are appointed by the EPA Administrator, generally for a period of three years. The SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. Generally, SAB meetings are announced in the **Federal Register**, conducted in public view, and provide opportunities for public input during deliberations. All the work of the SAB subcommittees is performed under the direction of the Board. The chartered Board provides strategic advice to the EPA Administrator on a variety of EPA science and research programs and reviews and approves all SAB subcommittee and panel reports. Additional information about the SAB Federal Advisory Committees may be found at *http://www.epa.gov/sab.*

The EPA previously announced (79 FR 73304–73305, December 10, 2014) the opportunity for the public to nominate experts to the SAB Agricultural Science Committee, with nominations requested by January 30, 2015. Due to the high level of interest in the new committee from organizations in the agricultural sector, the EPA has extended the date to receive nominations of candidates for the committee until March 30, 2015.

Pursuant to section 12307 of the Agricultural Act of 2014 (Pub. L. 133–79), the EPA is establishing a new agriculture-related standing committee of the SAB. The SAB Agricultural Science Committee will provide advice to the chartered SAB on matters referred to the Board that EPA and the Board, in consultation with the Secretary of Agriculture, determine will have a significant direct impact on farming and agriculture-related industries. Initial appointments to the committee will be for a mix of 2 and 3 year terms to ensure rotation and staggered terms for future years.

Expertise Sought: The SAB Staff Office is seeking nominations of experts to serve on the SAB Agricultural Science Committee with demonstrated expertise in agriculture-related sciences, including: agricultural economics, including valuation of ecosystem goods and services; agricultural chemistry; agricultural engineering; agronomy, including soil science; aquaculture science; biofuels engineering; biotechnology; crop and animal science; environmental chemistry; forestry; and hydrology. For further information, please contact Ms. Sanzone, DFO, as identified above.

Selection criteria include:

—Demonstrated scientific credentials and disciplinary expertise in relevant fields;

—Willingness to commit time to the committee and demonstrated ability to work constructively and effectively on committees;

—Background and experiences that would contribute to the diversity of perspectives on the committee, *e.g.,* geographic, economic, social, cultural, educational backgrounds, and professional affiliations; and

—For the committee as a whole, consideration of the collective breadth and depth of scientific expertise; and a balance of scientific perspectives.

As the committee undertakes specific advisory activities, the SAB Staff Office will consider two additional criteria for

each new activity: absence of financial conflicts of interest and absence of an appearance of a loss of impartiality.

How to Submit Nominations: Any interested person or organization may nominate qualified persons to be considered for appointment to this advisory committee. Individuals may self-nominate. Nominations should be submitted in electronic format (preferred) following the instructions for ''Nominating Experts to the SAB Agricultural Science Committee'' provided on the SAB Web site. Instructions can be accessed through the ''Nomination of Experts'' link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.* To be considered, all nominations should include the information requested. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

The following information should be provided on the nomination form: contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita; and a biographical sketch of the nominee indicating current position, educational background; research activities; sources of any research funding over the last two years; and recent service on other national advisory committees or national professional organizations. Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact the Designated Federal Officer for the committee, as identified above. Non-electronic submissions must follow the same format and contain the same information as the electronic form. The SAB Staff Office will acknowledge receipt of nominations.

Candidates invited to serve will be asked to submit the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows the EPA to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a loss of impartiality, as defined by

Federal regulation. The form may be viewed and downloaded through the ''Ethics Requirements for Advisors'' link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.*

Dated: January 14, 2015.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2015–01276 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: January 20, 2015.

Federal Deposit Insurance Corporation

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10510	First National Bank of Crestview	Crestview	FL	1/16/2015

[FR Doc. 2015–01271 Filed 1–23–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 10, 2015.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Thomas Lee Loonan,* Easton, Minnesota; to acquire voting shares of Easton Bancshares, Inc., and thereby indirectly acquire voting shares of State Bank of Easton, both in Easton, Minnesota.

Board of Governors of the Federal Reserve System, January 21, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–01270 Filed 1–23–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company

Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 20, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Business First Bancshares, Inc.,* Baton Rouge, Louisiana; to merge with American Gateway Financial Corporation, Port Allen, Louisiana, and thereby indirectly acquire American Gateway Bank, Baton Rouge, Louisiana.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Central Bancshares, Inc.,* Muscatine, Iowa; to acquire 100 percent of the voting shares of Buffalo Prairie State Bank, Buffalo Prairie, Illinois, and simultaneously merge Buffalo Prairie State Bank with and into Central Bancshares, Inc.'s wholly-owned bank, Central State Bank, Muscatine, Iowa.

Board of Governors of the Federal Reserve System, January 21, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–01269 Filed 1–23–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Community Services Block Grant (CSBG) Model Plan Application.

OMB No.: 0970–0382.

Sections 676 of the Community Services Block Grant (CSBG) Act requires States, including the District of Columbia and the Commonwealth of Puerto Rico, and U.S. territories applying for CSBG funds to submit an application and plan (Model Application Plan). The application plan must meet statutory requirements prior to being funded with CSBG funds. Applicants have the option to submit a detailed application annually or biannually. Entities that submit a biannual application must provide an abbreviated application the following year if substantial changes to the initial application will occur.

This request is to revise the approved Model Application Plan for States by automating the form, streamlining the information, and incorporating accountability measures. The revised and automated form may impose an added first-use burden; however, this burden will diminish substantially in subsequent years. Copies of the proposed collection of information can be obtained by visiting *http://www.acf.hhs.gov/programs/ocs/programs/csbg.*

Respondents: State Governments, including the District of Columbia and the Commonwealth of Puerto Rico, and U.S. territories.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CSBG State Model Application Plan	56	1	10	560

Estimated Total Annual Burden Hours: 560.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–01176 Filed 1–23–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Pharmacy Compounding Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Pharmacy Compounding Advisory Committee.

General Function of the Committee: To provide advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act (FD&C Act), and, as required, any other product for which FDA has regulatory responsibility, and make appropriate recommendations to the Commissioner of Food and Drugs.

Date and Time: The meeting will be held on February 23, 2015, from 8:30 a.m. to 5 p.m., and February 24, 2015, from 8:15 a.m. to 3 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Jayne E. Peterson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *PCAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Background: On November 27, 2013, the Drug Quality and Security Act (DQSA) amended section 503A of the FD&C Act to remove certain provisions regarding the advertising and promotion of compounded drugs and the solicitation of prescriptions for compounded drugs that were found to be unconstitutional by the U.S. Supreme Court in 2002. By removing the unconstitutional provisions, the law removed uncertainty regarding the validity of section 503A of the FD&C Act, which is applicable to compounders nationwide.

Section 503A of the FD&C Act (*21 U.S.C. 353a*) describes the conditions under which a human drug product compounded for an identified individual patient based on the receipt of a prescription can qualify for exemptions from three sections of the FD&C Act: (1) Section 501(a)(2)(B) (*21 U.S.C. 351*(a)(2)(B)) (concerning current good manufacturing practice (CGMP) requirements for drugs); (2) section 502(f)(1) (*21 U.S.C. 352*(f)(1)) (concerning the labeling of drugs with adequate directions for use); and (3) section 505 (*21 U.S.C. 355*) (concerning the approval of human drug products under new drug applications or abbreviated new drug applications).

The DQSA also created a new section 503B of the FD&C Act, under which a compounder can register as an ''outsourcing facility.'' Drug products compounded at outsourcing facilities may be able to qualify for exemptions from the FDA approval requirements (section 505 of the FD&C Act) and the requirement to label products with adequate directions for use (section 502(f)(1) of the FD&C Act) but will still be subject to CGMP requirements under section 501(a)(2)(B) of the FD&C Act.

One of the conditions that must be satisfied to qualify for the exemptions under both sections 503A and 503B of the FD&C Act is that the drug that is compounded does not appear on a list of drugs published by the Secretary that have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective (see sections 503A(b)(1)(C) and 503B(a)(4) of the FD&C Act).

Another condition in section 503A of the FD&C Act that must be satisfied to qualify for the section 503A exemptions is that bulk drug substances used in a compounded drug must meet one of the following criteria: (I) Comply with the standards of an applicable United States Pharmacopoeia (USP) or National Formulary monograph, if a monograph exists, and the USP chapter on pharmacy compounding; (II) if such a monograph does not exist, are drug substances that are components of drugs approved by the Secretary of Health and Human Services (the Secretary); or (III) if such a monograph does not exist and the drug substance is not a component of a drug approved by the Secretary, that appear on a list developed by the Secretary through regulations issued by the Secretary (section 503A(b)(1)(A)(i) of the FD&C Act). FDA will discuss drugs proposed for inclusion on these two lists with the Pharmacy Compounding Advisory Committee (committee).

Agenda: On February 23, 2015, during the morning session, the committee will discuss proposed revisions to the list of drug products that may not be compounded under the exemptions provided by the FD&C Act because the drug products have been withdrawn or removed from the market because such drug products or components of such drug products have been found to be unsafe or not effective. The list of products is currently codified at 216.24 (21 CFR 216.24), and FDA is proposing to revise and update the list at § 216.24 for purposes of both sections 503A and 503B of the FD&C Act. On July 2, 2014, FDA published a proposed rule that would add 25 drug products to this list and modify the description of one drug product on this list to add an exception (79 FR 37687, July 2, 2014). FDA received two drug-specific comments on the proposed rule. One comment requested that FDA clarify whether the entry for adenosine phosphate that is currently included on the list (all drug products containing adenosine phosphate) is intended to include all three forms of adenosine phosphate (mono-, di-, and triphosphate). The second comment requested that chloramphenicol tablets, 250 milligrams, be excluded from the list. FDA will discuss both of these comments with the committee.

On February 23, 2015, during the afternoon session, and on February 24, 2015, the committee will discuss proposed criteria for developing the list of bulk drug substances that may be used to compound drug products in accordance with section 503A of the FD&C Act and will discuss six substances nominated for inclusion on the list. On December 4, 2013, and July 2, 2014, FDA published notices in the **Federal Register** (78 FR 72841 and 79 FR 37747) soliciting nominations for this list. At this first meeting of the committee, FDA intends to discuss the following nominated bulk drug substances: Cantharidin, diphenylcyclopropenone, piracetam, silver protein mild, squaric acid dibutyl ester, and thymol iodide. The nominators of these substances will be invited to make a short presentation supporting the nomination. Other nominated substances will be discussed at future committee meetings.

FDA intends to make background material available to the public at no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 9, 2015. Oral presentations from the public will be scheduled between approximately 10:15 a.m. to 10:45 a.m. and 3:35 p.m. to 3:50 p.m. on February 23, 2015, and between approximately 9:30 a.m. to 9:45 a.m. and 11:45 a.m. to noon on February 24, 2015. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 12, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 13, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jayne E. Peterson at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 21, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–01267 Filed 1–23–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Dermatologic and Ophthalmic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Dermatologic and Ophthalmic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 9, 2015, from 8 a.m. to 5:15 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Jennifer Shepherd, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *DODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: During the morning session, the committee will discuss new drug application (NDA) 206333, deoxycholic acid injection, a cytolytic drug, submitted by Kythera Biopharmaceuticals, proposed for the improvement in the appearance of moderate-to-severe convexity or fullness associated with submental fat in adults.

During the afternoon session, the committee will discuss pediatric development of systemic products for the treatment of atopic dermatitis with inadequate response to topical prescription therapy.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 23, 2015. Oral presentations from the public will be scheduled between approximately 10:30 a.m. to 11 a.m., and 3:30 p.m. to 4 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 12, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact

person will notify interested persons regarding their request to speak by February 13, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jennifer Shepherd at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 20, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–01268 Filed 1–23–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S. C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Serious STEM Games—SBIR/STTR Applications.

Date: February 12–13, 2015.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Urolithiasis Applications.

Date: February 13, 2015.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ryan G Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–13–169: Academic Industrial Partnership.

Date: February 17, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Donald S Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Systemic Injury From Environmental Exposure.

Date: February 18–19, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Neuro/Psychopathology, Lifespan Development, and STEM Education.

Date: February 18–19, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: John H Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435–0628, *newmanjh@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Drug Discovery for the Nervous System Study Section.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Risk Prevention and Health Behavior.

Date: February 19–20, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington, DC, 923 16th Street, NW., Washington, DC 20006.

Contact Person: Claire E Gutkin, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, (301) 594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular Neurodegeneration.

Date: February 19, 2015.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Best Western Tuscan Inn, 425 North Point Street, San Francisco, CA 94133.

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301–435–1203, *laurent.taupenot@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 20, 2015.

Carolyn Baum,

Program Analyst, Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01224 Filed 1–23–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Meetings

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 Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with

attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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: Fogarty International Center Advisory Board.

Date: February 10, 2015.

Closed: February 10, 2015, 8:00 a.m. to 1:30 p.m.

Agenda: Review of grant applications.

Place: National Institutes of Health, Lawton L. Chiles International House, Bethesda, MD 20892.

Open: February 10, 2015 1:45 p.m. to 5:00 p.m.

Agenda: Update and discussion of current and planned FIC activities.

Place: National Institutes of Health, Lawton L. Chiles International House, Bethesda, MD 20892.

Contact Person: Kristen Weymouth, Fogarty International Center, National Institutes Of Health, 31 Center Drive, Room B2c02, Bethesda, MD 20892, (301) 496–1415, *WEYMOUTHK@MAIL.NIH.GOV.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nih.gov/fic/about/advisory.html,* where an agenda and any additional information for the meeting will be posted when available.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health HHS)

Dated: January 16, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01228 Filed 1–23–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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 Center for Advancing Translational Sciences Special Emphasis Panel, R13 Conference Grant Review.

Date: February 26, 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, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Sailaja Koduri, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Room 1074, Bethesda, MD 20892, 301–435–0813, *Sailaja.koduri@nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel, New Therapeutic Uses (NTU) 1—Neurosciences.

Date: March 4–5, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sheri A. Hild, Ph.D., Scientific Review Officer, Office of Grants Management and Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1082, Bethesda, MD 20892–4874, 301–435–0811, *hildsa@mail.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel, New Therapeutic Uses (NTU) 2.

Date: March 11–12, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sheri A. Hild, Ph.D., Scientific Review Officer, Office of Grants Management and Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1082, Bethesda, MD 20892–4874, 301–435–0811, *hildsa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: January 20, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01225 Filed 1–23–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 Allergy and Infectious Diseases Special Emphasis Panel, ''Human Immunology Project Consortium (U19)''.

Date: February 18–20, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lakshmi Ramachandra, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, Rockville, MD 20892, 240–669–5061, *ramachandral@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 20, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01227 Filed 1–23–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Diabetic Gastroparesis.

Date: February 24, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 20, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01226 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Environmental Health Sciences Council.

Date: February 18–19, 2015.

Open: February 18, 2015, 8:30 a.m. to 4:45 p.m.

Agenda: Discussion of program policies and issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: February 19, 2015, 8:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications .

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Gwen W. Collman, Ph.D., Interim Director, Division of Extramural Research & Training, National Institutes of Health, Nat. Inst. of Environmental Health Sciences, 615 Davis Dr., KEY615/3112, Research Triangle Park, NC 27709, (919) 541–4980, *collman@niehs.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.niehs.nih.gov/dert/c-agenda.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: January 20, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01223 Filed 1–23–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–1077]

Area Maritime Security Advisory Committee (AMSC) Western Florida

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: This notice requests individuals interested in serving on the AMSC Western Florida (AMSC–WF) submit their applications for membership to the Captain of the Port (COTP) St. Petersburg, Florida.

DATES: Requests for membership should reach the U.S. Coast Guard COTP St. Petersburg, Florida no later than 1 March 2015.

ADDRESSES: Applications for membership should be submitted to the Captain of the Port at the following address: c/o AMSC Secretary, 155 Columbia Drive, Tampa, Florida 33606.

FOR FURTHER INFORMATION CONTACT: For questions about submitting an application or about the AMSC in general, contact Mr. Edmond Morris at (813) 228–2191 extension 8108.

SUPPLEMENTARY INFORMATION: *Authority.* Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorized the Secretary of the

Department in which the Coast Guard is operating to establish Area Maritime Security Advisory Committees for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C.; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470(5 U.S.C. App.2). The AMSCs shall assist the Captain of the Port in the development, review, update, and exercising of the AMS Plan for their area of responsibility. Such matters may include, but are not limited to: Identifying critical port infrastructure and operations; Identifying risks (threats, vulnerabilities, and consequences); Determining mitigation strategies and implementation methods; Developing strategies to facilitate the recovery of the Maritime Transportation System (MTS) after a Transportation Security Incident; Developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and Providing advice to, and assisting the Captain of the Port in developing and maintaining the Area Maritime Security Plan.

AMSC Membership: Members of the AMSC should have at least five years of experience related to maritime or port security operations. The St. Petersburg AMSC has seven appointed members in each of two geographic subdivisions. We are seeking to fill all fourteen appointed vacancies with this solicitation. Applicants may be required to pass an appropriate security background check prior to appointment to the committee. Members' terms of office will be for five years; however, a member is eligible to serve additional terms of office. Members will not receive any salary or other compensation for their service on an AMSC. In support of the USCG policy on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Request for Applications: Those seeking membership are not required to submit formal applications to the local Captain of the Port, however, because we do have an obligation to ensure that a specific number of members have the prerequisite maritime security experience, we encourage the submission of resumes highlighting experience in the maritime and security industries.

Dated: January 7, 2015.

Gregory D. Case,

Captain, U.S. Coast Guard, Captain of the Port/Federal Maritime Security Coordinator, St. Petersburg, Florida.

[FR Doc. 2015–01335 Filed 1–23–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0024]

Agency Information Collection Activities: Entry/Immediate Delivery Application and ACE Cargo Release

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Entry/Immediate Delivery Application (Forms 3461 and 3461 ALT) and ACE Cargo Release. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before March 27, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Entry/Immediate Delivery Application and ACE Cargo Release.

OMB Number: 1651–0024..

Form Number: 3461 and 3461 ALT.

Abstract: All items imported into the United States are subject to examination before entering the commerce of the United States. There are two procedures available to effect the release of imported merchandise, including ''entry'' pursuant to 19 U.S.C. 1484, and ''immediate delivery'' pursuant to 19 U.S.C. 1448(b). Under both procedures, CBP Forms 3461, Entry/Immediate Delivery, and 3461 ALT are the source documents in the packages presented to Customs and Border Protection (CBP). The information collected on CBP Forms 3461 and 3461 ALT allow CBP officers to verify that the information regarding the consignee and shipment is correct and that a bond is on file with CBP. CBP also uses these forms to close out the manifest and to establish the obligation to pay estimated duties in the time period prescribed by law or regulation. CBP Form 3461 is also a delivery authorization document and is given to the importing carrier to authorize the release of the merchandise.

CBP Forms 3461 and 3461 ALT are provided for by 19 CFR 141 and 142. These forms and instructions for Form 3461 are accessible at: *http://www.cbp.gov/newsroom/publications/forms.*

ACE Cargo Release is a program for ACE entry summary filers in which importers or brokers may file Simplified Entry data in lieu of filing the CBP Form 3461. This data consists of 12 required elements: Importer of record; buyer name and address; buyer employer identification number (consignee number), seller name and address; manufacturer/supplier name and

address; Harmonized Tariff Schedule 10-digit number; country of origin; bill of lading; house air waybill number; bill of lading issuer code; entry number; entry type; and estimated shipment value. Three optional data elements are the container stuffing location; consolidator name and address, and ship to party name and address. The data collected under the ACE Cargo Release program is intended to reduce transaction costs, expedite cargo release, and enhance cargo security. ACE Cargo Release filing minimizes the redundancy of data submitted by the filer to CBP through receiving carrier data from the carrier. This design allows the participants to file earlier in the transportation flow. Guidance on using ACE Cargo Release may be found at *http://www.cbp.gov/trade/ace/features.*

Current Actions: This submission is being made to extend the expiration date with a change in the burden hours resulting from the transition from Form 3461 to ACE Cargo Release. There are no changes to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses.

CBP Form 3461:

Estimated Number of Respondents: 3,014.

Estimated Number of Responses per Respondent: 1,410.

Estimated Total Annual Responses: 4,249,740.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 1,062,435.

CBP Form 3461 ALT:

Estimated Number of Respondents: 6,795.

Estimated Number of Responses per Respondent: 1,390.

Estimated Total Annual Responses: 9,444,069.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 472,203.

ACE Cargo Release:

Estimated Number of Respondents: 3,015.

Estimated Number of Responses per Respondent: 1,410.

Estimated Total Annual Responses: 4,251,150.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 705,691.

Dated: January 21, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–01343 Filed 1–23–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0033]

Agency Information Collection Activities: Bonded Warehouse Proprietor's Submission

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Bonded Warehouse Proprietor's Submission (CBP Form 300). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before February 25, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (79 FR 67181) on November 12, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Bonded Warehouse Proprietor's Submission.

OMB Number: 1651–0033.

Form Number: Form 300.

Abstract: CBP Form 300, *The Bonded Warehouse Proprietor's Submission,* is filed annually by each warehouse proprietor. The information on CBP Form 300 is used by CBP to evaluate warehouse activity for the year. This form must be filed within 45 days of the end of his business year, pursuant to the provisions of the Tariff Act of 1930, as amended, 19 U.S.C. 66, 1311, 1555, 1556, 1557, 1623 and 19 CFR 19.12(5). The information collected on this form helps CBP determine all bonded merchandise that was entered, released, and manipulated in the warehouse. CBP Form 300 is accessible at *http://forms.cbp.gov/pdf/CBP_Form_300.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Form 300.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,800.

Estimated Number of Total Annual Responses: 1,800.

Estimated Time per Response: 25 hours.

Estimated Total Annual Burden Hours: 45,000.

Dated: January 21, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–01342 Filed 1–23–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2015–N002; FXES11130200000–156–FF02ENEH00]

Receipt of an Incidental Take Permit Application for Participation in the Oil and Gas Industry Conservation Plan for the American Burying Beetle in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act, as amended (Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on an incidental take permit application for take of the federally listed American burying beetle resulting from activities associated with the geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure within Oklahoma. If approved, the permit would be issued under the approved *Oil and Gas Industry Conservation Plan Associated with Issuance of Endangered Species Act Section 10(a)(1)(B) Permits for the American Burying Beetle in Oklahoma* (ICP).

DATES: To ensure consideration, written comments must be received on or before February 25, 2015.

ADDRESSES: You may obtain copies of all documents and submit comments on the applicant's ITP application by one of the following methods. Please refer to the permit number when requesting documents or submitting comments.

○ *U.S. Mail:* U.S. Fish and Wildlife Service, Division of Endangered Species—HCP Permits, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.

○ *Electronically: fw2_hcp_permits@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, by U.S. mail at Environmental Review, P.O. Box 1306, Room 6034, Albuquerque, NM 87103; or by telephone at 505–248–6651.

SUPPLEMENTARY INFORMATION:

Introduction

Under the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.;* Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on an incidental take permit (ITP) application for take of the federally listed American burying beetle (*Nicrophorus americanus*) resulting from activities associated with geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure within Oklahoma. If approved, the permit would be issued to the applicant under the *Oil and Gas Industry Conservation Plan Associated with Issuance of Endangered Species Act Section 10(a)(1)(B) Permits for the American Burying Beetle in Oklahoma* (ICP). The ICP was made available for comment on April 16, 2014 (79 FR 21480), and approved on May 21, 2014 (publication of the FONSI notice was on July 25, 2014; 79 FR 43504). The ICP and the associated environmental assessment/finding of no significant impact are available on the Web site at *http://www.fws.gov/southwest/es/oklahoma/ABBICP.* However, we are no longer taking comments on these documents.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following application under the ICP, for incidental take of the federally listed ABB. Please refer to the appropriate permit number (TE–54185B) when requesting application documents and when submitting comments. Documents and other information the applicants have submitted with this application 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–54740B

Applicant: Newfield Exploration Mid-Continent, Inc., Tulsa, OK.

Applicant requests a new permit for gas upstream and midstream production, including geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of gas well field infrastructure, as well as construction, maintenance, operation, repair, decommissioning, and reclamation of gas gathering, transmission, and distribution pipeline infrastructure within Oklahoma.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: January 15, 2015.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region.

[FR Doc. 2015–01284 Filed 1–23–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B711.IA000814]

Renewal of Agency Information Collection for Class III Tribal-State Gaming Compact Process

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Acting Assistant Secretary—Indian Affairs is submitting to the Office of Management and Budget (OMB) a request for renewal for the collection of information for the Class III Tribal-State Gaming Compact Process. The information collection is currently authorized by OMB Control Number 1076–0172, which expires January 31, 2015.

DATE: Interested persons are invited to submit comments on or before February 25, 2015.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to Ms. Paula Hart, U.S. Department of the Interior, Office of Indian Gaming, 1849 C Street NW., Mail Stop 3657, Washington, DC 20240; email: *Paula.Hart@BIA.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Paula Hart, telephone: (202) 219–4066. You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Assistant Secretary—Indian Affairs is seeking renewal of the approval for the information collection conducted under 25 CFR 293, Class III Tribal-State Gaming Compact Process and the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2710(d)(8)(A), (B) and (C), which authorizes the Secretary to approve, disapprove or ''consider approved'' (*i.e.,* deemed approved) a tribal state gaming compact or compact amendment and publish notice of that approval or considered approval in the **Federal Register**. There are no changes being made to this information collection.

II. Request for Comments

On September 19, 2014, the Assistant Secretary—Indian Affairs published a notice announcing the renewal of this information collection and provided a 60-day comment period in the **Federal Register** (79 FR 56397). There were no comments received in response to this notice.

The Assistant Secretary—Indian Affairs requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0172.

Title: Class III Tribal-State Gaming Compact Process.

Brief Description of Collection: The information collected includes tribal-state compacts or compact amendments entered into by Indian tribes and State governments. The Secretary of the Interior reviews this information and may approve, disapprove or consider the compact approved.

Type of Review: Extension without change of currently approved collection.

Respondents: Indian tribes and State governments.

Number of Respondents: 32 per year, on average.

Frequency of Response: Once.

Estimated Time per Response: 360 hours.

Estimated Total Annual Hour Burden: 11,520 hours.

Estimated Total Annual Non-Hour Dollar Costs: $0.

Dated: January 20, 2015.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2015–01293 Filed 1–23–15; 8:45 am]

BILLING CODE 4310–4M–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[145A2100DD.AADD001000.A0E501010.999900]

Renewal of Agency Information Collection for Sovereignty in Indian Education Grant Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is submitting to the Office of Management and Budget (OMB) a request for approval for the collection of information for the Sovereignty in Indian Education Grant Program. The information collection is currently authorized by OMB Control Number 1076–0182, which expires January 31, 2015.

DATES: Interested persons are invited to submit comments on or before February 25, 2015.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to: Ms. Wendy Greyeyes, Bureau of Indian Education, 1849 C Street NW., MS–4655–MIB, Washington, DC 20240; Email: *Wendy.Greyeyes@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Ms. Wendy Greyeyes, telephone: (202) 208–5810. You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

In 2013, the Secretary of the Interior and the Secretary of Education convened an American Indian Education Study Group to diagnose the systemic challenges facing the Bureau of Indian Education (BIE) and to propose a comprehensive plan for reform to ensure that all students attending BIE-funded schools receive a world-class education.

The Study Group drafted a framework for reform based on several listening sessions last fall with tribal leaders, Indian educators and others throughout Indian Country on how to facilitate tribal sovereignty in American Indian education and how to improve educational outcomes for students at BIE-funded schools. The Study Group incorporated feedback it received from tribal leaders and other BIE stakeholders into the final ''Blueprint for Reform,'' released on June 13, 2014.

Acting on the recommendations in the *Blueprint,* BIE will award competitive grants to tribes and their tribal education agencies to promote tribal control and operation of BIE-funded schools on their Indian reservations. The purpose of the grants is to support the tribe's capacity to manage and operate tribally controlled schools as defined in the Tribally Controlled

Schools Act of 1988 (Pub. L. 100–297). These funds will (a) support development of a school-reform plan to improve educational outcomes for students and (b) improve efficiencies and effectiveness in the operation of BIE-funded schools within a reservation.

The grants will provide funds for the tribe to:

- Develop an implementation plan that will reform a tribe's current organizational structure towards an expert and independent tribal education agency that will support schools and students; and
- Cover the execution of the implementation plan with identified staffing, projected timelines, proposed budgets, and activities.

Each proposal must include a project narrative, a budget narrative, a work plan outline, and a Project Director to manage the execution of the grant. The Project Directors will participate in monthly collaboration meetings, submit quarterly budget updates, ensure an annual report is submitted at the end of each project year, and ultimately ensure that the tribal education agency fulfills the obligations of the grant. A response is required to obtain and/or retain a benefit.

II. Request for Comments

On November 11, 2014, BIE published a notice announcing the renewal of this information collection and provided a 60-day comment period in the **Federal Register** (79 FR 66394). There were no comments received in response to this notice.

The BIE requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0182.

Title: Sovereignty in Indian Education Grant Program.

Brief Description of Collection: Indian Tribes and Tribal Organizations may submit proposals to support their efforts to take control and operate BIE-funded schools located on the tribe's reservation. Each proposal must include a project narrative, a budget narrative, a work plan outline, and a Project Director to manage the execution of the grant. The Project Directors will participate in monthly collaboration meetings, submit quarterly budget updates, ensure an annual report is submitted at the end of each project year, and ultimately ensure that the tribal education agency fulfills the obligations of the grant.

Type of Review: Extension without change of currently approved collection.

Respondents: Indian Tribes and/or Tribal Education Departments.

Number of Respondents: 11 per year.

Frequency of Response: Proposals and Annual reports once per year; Budget Reports are submitted 4 times per year; and Monthly meetings are 12 times per year.

Estimated Time per Response: Ranges from 1 hour to 40 hours.

Estimated Total Annual Hour Burden: 682 hours.

Estimated Total Annual Non-Hour Dollar Cost: $0.

Dated: January 20, 2015.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2015–01291 Filed 1–23–15; 8:45 am]

BILLING CODE 4310–6W–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 704–TA–1 and 734–TA–1 (Review)]

Sugar from Mexico; Institution of Reviews of Agreements Suspending Antidumping Duty and Countervailing Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of reviews pursuant to sections 704(h) and 734(h) of the Tariff Act of 1930 (19 U.S.C. 1671c(h) and 1673c(h)) (the Act) of suspension agreements that the United States Department of Commerce has entered in antidumping duty and countervailing duty investigations of sugar from Mexico. The Commission will determine whether the injurious effect of the subject merchandise is eliminated completely by the agreements. Under the statute, the Commission must issue determinations no later than 75 days after the date on which the petition for review was filed.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and D (19 CFR part 207).

DATES: *Effective Date:* January 8, 2015.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), 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 these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. These reviews are instituted in response to petitions filed on January 8, 2015, by Imperial Sugar Company (''Imperial''), Sugar Land, Texas and AmCane Sugar LLC (''AmCane''), Taylor, Michigan. The Commission has determined that Imperial and AmCane are interested parties who were parties to the underlying investigations at the time the petitions were filed, and consequently are appropriate petitioning parties.

Participation in the reviews and public service list. Persons wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules. Section 201.11 of the Commission's rules does not specify when entries of appearance must be filed in proceedings covered by part

207, subpart D; in these proceedings, entries of appearance will be considered timely if filed no later than 14 days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these reviews upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the reviews under the APO issued in the proceedings, provided that the application is made not later than 14 days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Written submissions. Parties will have the opportunity to file two written submissions in these reviews. The first submission may contain any factual information pertinent to the determinations that the Commission is required to make pursuant to sections 704(h) and 734(h) of the Act and arguments concerning the significance of this information, or information in the record of *Sugar from Mexico,* Inv. Nos. 701–TA–513 and 731–TA–1249 (Preliminary) (''the preliminary phase investigations'') to these determinations. The Commission is particularly interested in receiving parties' views concerning the following issues:

- What information the Commission should use to assess whether the injurious effect of the imports of the subject merchandise is eliminated completely by the suspension agreements
- The time period the Commission should evaluate in assessing whether the injurious effect of the imports of the subject merchandise is eliminated completely by the suspension agreements
- The standard the Commission should use to assess whether the injurious effect of imports of the subject merchandise is ''eliminated completely''
- The use of the singular word ''effect'' in the statute and whether the Commission is permitted or required to assess any ''effect'' other than that resulting from pricing of the subject merchandise under the suspension agreements.
- Whether the Commission's analysis of ''injurious effect'' incorporates any analysis of injurious effect of imports of the subject merchandise caused by the suspension agreement itself.

Parties need not resubmit any information that is in the record of the preliminary phase investigations, as this information will be included in the record of these reviews. This first submission shall be filed no later than Tuesday, February 10, 2015.

The second submission should respond to arguments and information submitted in the first submissions as well as other information in the record. These submissions may contain no more than 20 pages of textual material, double-spaced and single-sided, when printed out on paper measuring 8.5 x 11 inches. They may also include an appendix which may contain responses to specific requests from Commissioners and staff. Aside from the material in the appendix, the second submission may not contain new factual information. This second submission shall be filed no later than Thursday, February 26, 2015.

If written submissions contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Opportunities for Oral Presentation: The Commission will convene a proceeding on Thursday, February 19, 2015, at 9:30 a.m. at 500 E Street SW., Washington, DC to receive oral presentations from parties to the reviews. The Commission will provide further information about the nature of this proceeding to the parties at a later date.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: January 21, 2015.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–01264 Filed 1–23–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–006]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 5, 2015 at 2 p.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–458 and 731–TA–1154 (Review) (Certain Kitchen Appliance Shelving and Racks from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission on February 24, 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.

Issued: January 21, 2015.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–01387 Filed 1–22–15; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Euticals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before March 27, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement

Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on May 29, 2014, Euticals, Inc., 2460 W. Bennett Street, Springfield, Missouri 65807–1229, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Amphetamine (1100)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Oripavine (9330)	II
Tapentadol (9780)	II

The company plans to manufacture the listed controlled substances in bulk for distribution and sale to its customers.

In reference to Amphetamine (1100), the company plans to acquire the listed controlled substance in bulk from a domestic source in order to manufacture other controlled substances in bulk for distribution to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01312 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Halo Pharmaceutical, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before March 27, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION:

The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers, of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on July 21, 2014, Halo Pharmaceutical, Inc., 30 North Jefferson Road, Whippany, New Jersey 07981, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

The company plans to manufacture Hydromorphone HCl for sale to other manufacturers and to manufacture other controlled substances for distribution to its customers. Dihydromorphine is an intermediate in the manufacture of Hydromorphone and is not for commercial distribution.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01313 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Fisher Clinical Services, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before February 25, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before February 25, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of importers, of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on June 16, 2014, Fisher Clinical Services, Inc. 7554 Schantz Road, Allentown, Pennsylvania 18106 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Methylphenidate (1724)	II
Levorphanol (9220)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II

The company plans to import the listed substances for analytical research, testing, and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01309 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Mylan Pharmaceuticals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before February 25, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before February 25, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on October 6, 2014, Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, West Virginia 26505, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01310 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Noramco, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before February 25, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before February 25, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and request for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 27, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on August 26, 2014, Noramco, Inc., 500 Swedes Landing Road, Wilmington, Delaware 19801–4417, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Phenylacetone (8501)	II
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import raw Opium (9600) and Poppy Straw concentrate (9670) to bulk manufacture other controlled substances for distribution to its customers. The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol (9780) for distribution to its customers. The company plans to import Phenylacetone (8501) in bulk for the manufacture of a controlled substance.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01311 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Cody Laboratories, Inc.

ACTION: Notice of registration.

SUMMARY: Cody Laboratories, Inc. applied to be registered as an importer of certain basic classes of controlled substances. The DEA grants Cody Laboratories, Inc. registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated August 27, 2014, and published in the **Federal Register** on September 4, 2014, 79 FR 52762, Cody Laboratories, Inc., 601 Yellowstone Avenue, Cody, Wyoming 82414–9321, applied to be registered as an importer of certain basic classes of controlled substances. No comments or objections were submitted to this notice. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Cody Laboratories, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Phenylacetone (8501)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company plans to import narcotic raw materials for manufacturing and further distribution to its customers. The company is registered with the DEA as a manufacturer of several controlled substances that are manufactured from poppy straw concentrate.

The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01317 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Catalent CTS, LLC

ACTION: Notice of registration.

SUMMARY: Catalent CTS, LLC applied to be registered as an importer of certain basic classes of controlled substances. The DEA grants Catalent CTS, LLC registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION:

By notice dated June 10, 2014, and published in the **Federal Register** on June 17, 2014, 79 FR 34551, Catalent CTS, LLC, 10245 Hickman Mills Drive, Kansas City, Missouri 64137, applied to be registered as an importer of certain basic classes of controlled substances. One comment of objection was received on this registration and a request for a hearing was received on September 3, 2014. The objection was resolved. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417, (January 25, 2007).

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Catalent CTS, LLC to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Marihuana (7360)	I
Poppy Straw Concentrate (9670)	II

The company plans to import a finished pharmaceutical product containing cannabis extracts in dosage form for a clinical trial study.

This compound is listed under drug code 7360. No other activity for this drug code is authorized for this registration.

In addition, the company plans to import an ointment for the treatment of wounds which contain trace amounts of the controlled substances normally found in poppy straw concentrate for packaging and labeling to be used in clinical trials.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01316 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: IRIX Manufacturing, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before March 27, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances

(other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on August 14, 2014, IRIX Manufacturing, Inc., 309 Delaware Street, Building 1106, Greenville, South Carolina 29605, applied to be registered as a bulk manufacturer of noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance as API for clinical trials.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01314 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Siemens Healthcare Diagnostics, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before March 27, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpart. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on November 19, 2014, Siemens Healthcare Diagnostics, Inc., Attn: RA, 100 GBC Drive, Mailstop 514, Newark, Delaware 19702, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Tetrahydrocannabinols (7370)	I
Ecgonine (9180)	II
Morphine (9300)	II
Thebaine (9333)	II

The company plans to produce the listed controlled substances in bulk to be used in the manufacture of reagents and drug calibrator controls which are DEA exempt products.

In reference to drug code 7370 the company plans to bulk manufacture a synthetic tetrahydrocannabinol. No other activity for this drug code is authorized for this registration.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01315 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Pharmacore, Inc.

ACTION: Notice of registration.

SUMMARY: Pharmacore, Inc. applied to be registered as a manufacturer of a basic class of controlled substance. The DEA grants Pharmacore, Inc. registration as a manufacturer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 3, 2014, 79 FR 31987, Pharmacore, Inc., 4180 Mendenhall Oaks Parkway, High Point, North Carolina 27265, applied to be registered as a manufacturer of a certain basic class of controlled substance. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Pharmacore, Inc. to manufacture this basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of Noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the listed controlled substance as an active pharmaceutical ingredient (API) for clinical trials.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01298 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Lin Zhi International, Inc.

ACTION: Notice of registration.

SUMMARY: Lin Zhi International, Inc., applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Lin Zhi International, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32321, Lin Zhi International, Inc., 670 Almanor Avenue, Sunnyvale, California 94085, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Lin Zhi International, Inc. to manufacture the basic classes of controlled

substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Cocaine (9041)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Morphine (9300)	II

The company plans to manufacture the listed controlled substances as bulk reagents for use in drug abuse testing.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01305 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Euticals, Inc.

ACTION: Notice of registration.

SUMMARY: Euticals, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Euticals, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated June 10, 2014, and published in the **Federal Register** on June 17, 2014, 79 FR 34554, Euticals, Inc., 2460 W. Bennett Street, Springfield, Missouri 65807–1229, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Euticals, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled Substance	Schedule
Methadone (9250)	II
Oripavine (9330)	II

The company plans to manufacture the listed controlled substances in bulk for distribution and sale to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01307 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Stepan Company

ACTION: Notice of registration.

SUMMARY: Stepan Company applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Stepan Company registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32320, Stepan Company, Natural Products Dept., 100 W. Hunter Avenue, Maywood, New Jersey 07607, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Stepan Company to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Cocaine (9041)	II
Ecgonine (9180)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01290 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Ampac Fine Chemicals, LLC

ACTION: Notice of registration.

SUMMARY: AMPAC Fine Chemicals, LLC applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants AMPAC Fine Chemicals, LLC registration as a manufacturer of the controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated June 10, 2014, and published in the **Federal Register** on June 17, 2014, 79 FR 34553, AMPAC Fine Chemicals LLC, Highway 50 and Hazel Avenue, Building 05001, Rancho Cordova, California 95670, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of AMPAC Fine Chemicals, LLC to manufacture the basic classes of controlled substances is consistent with

the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances:

Controlled substance	Schedule
Methylphenidate (1724)	II
Thebaine (9333)	II
Poppy Straw Concentrate (9670)	II
Tapentadol (9780)	II

The company is a contract manufacturer. In reference to poppy straw concentrate the company will manufacture thebaine intermediates for sale to its customers for further manufacture. No other activity for this drug code is authorized for this registration.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01296 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Registration: Chemtos, LLC

ACTION: Notice of registration.

SUMMARY: Chemtos, LLC applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Chemtos, LLC registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated August 19, 2014, and published in the **Federal Register** on August 26, 2014, 79 FR 50948, Chemtos, LLC, 14101 W. Highway 290, Building 2000B, Austin, Texas 78737–9331, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Chemtos, LLC to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Codeine (9050)	II
Etorphine HCl (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Dihydroetorphine (9334)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II

The company plans to manufacture small quantities of the listed controlled substances in bulk for distribution to its customers for use as reference standards.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01292 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Mallinckrodt, LLC

ACTION: Notice of registration.

SUMMARY: Mallinckrodt, LLC applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Mallinckrodt, LLC registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION:

By notice dated May 28, 2014, and published in the **Federal Register** on June 3, 2014, 79 FR 31986, Mallinckrodt, LLC, 3600 North Second Street, St. Louis, Missouri 63147, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Mallinckrodt, LLC to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances:

Controlled substance	Schedule
Tetrahydrocannabinols (7370)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Difenoxin (9168)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Norlevorphanol (9634)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Nabilone (7379)	II
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Codeine (9050)	II
Dihydrocodeine (9120)	II

Controlled substance	Schedule
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances for internal use and for distribution to other companies.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01304 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Chattem Chemicals, Inc.

ACTION: Notice of registration.

SUMMARY: Chattem Chemicals, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Chattem Chemicals, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated August 27, 2014, and published in the **Federal Register** on September 4, 2014, 79 FR 52764, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Chattanooga, Tennessee 37409, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Chattem Chemicals, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
4-Methoxyamphetamine (7411)	I
Dihydromorphine (9145)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for distribution and sale to its customers. Regarding (9640) the company plans to manufacture another controlled substance for sale to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01308 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Wildlife Laboratories, Inc.

ACTION: Notice of registration.

SUMMARY: Wildlife Laboratories, Inc. applied to be registered as a manufacturer of a basic class of controlled substance. The DEA grants Wildlife Laboratories, Inc. registration as a manufacturer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 3, 2014, 79 FR 31985, Wildlife Laboratories, Inc., 1230 W. Ash Street, Suite D, Windsor, Colorado 80550, applied to be registered as a manufacturer of a certain basic class of controlled substance. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Wildlife Laboratories, Inc. to manufacture the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of Carfentanil (9743), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the above listed controlled substance for sale to veterinary pharmacies, zoos, and other animal and wildlife applications.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01294 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Cerilliant Corporation

ACTION: Notice of registration.

SUMMARY: Cerilliant Corporation applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Cerilliant Corporation registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated August 19, 2014, and published in the **Federal Register** on August 26, 2014, 79 FR 50948, Cerilliant Corporation, 811 Paloma Drive, Suite A, Round Rock, Texas 78665–2402, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cerilliant Corporation to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled Substance	Schedule
3-Fluoro-N-methylcathinone (3–FMC) (1233).	I
Cathinone (1235)	I
Methcathinone (1237)	I
4-Fluoro-N-methylcathinone (4–FMC) (1238).	I
Pentedrone (α-methylaminovalerophenone) (1246).	I
Mephedrone (4-(Methyl-N-methylcathinone) (1248).	I
4-Methyl-N-ethylcathinone (4–MEC) (1249).	I
Naphyrone (1258)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Fenethylline (1503)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590).	I
Gamma Hydroxybutyric Acid (2010).	I
Methaqualone (2565)	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole) (6250).	
SR–18 and RCS–8 (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole) (7008).	
5-Flouro-UR–144 and XLR11 [1-(5-Fluoro-pentyl) 1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl) methanone (7011).	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide) (7012).	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole) (7019).	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide) (7035).	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide (7048).	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole) (7081).	I
SR–19 and RCS–4 (1-Pentyl-3[(4-methoxy)-benzoyl] indole (7104).	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole) (7118).	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole) (7122).	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropy-l)methanone (7144).	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole) (7173).	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl) indole) (7200).	I
AM–2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole) (7201).	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole) (7203).	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate) (7222).	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate) (7225).	I
Alpha-ethyltryptamine (7249)	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol) (7297).	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S) 3-hydroxycyclohexyl-phenol) (7298).	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C–T–7) (7348).	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Parahexyl (7374)	I
Mescaline (7381)	I
2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine (2C–T–2) (7385).	I
3,4,5–Trimethoxyamphetamine (7390).	I
4-Bromo–2,5-dimethoxyamphetamine (7391).	I
4-Bromo–2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole (7398).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
5-Methoxy-N–N-dimethyltryptamine (7431).	I
Alpha-methyltryptamine (7432)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Controlled Substance Schedule.	
5-Methoxy-N,N-diisopropyltryptamine (7439).	I
N-Ethyl-1-phenylcyclohexylamine (7455).	I
1-(1-Phenylcyclohexyl)pyrrolidine (7458).	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470).	I
N-Benzylpiperazine (7493)	I
4-Methyl-alphapyrrolidinopropiophenone (4-mePPP) (7498).	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C–D) (7508).	I
2-(2,5-Dimethoxy-4-methylphenyl) ethanamine (2C–E) (7509).	I
2-(2,5-Dimethoxyphenyl) ethanamine (2C–H) (7517).	I
2-(4-Iodo-2,5-dimethoxyphenyl) ethanamine (2C–I) (7518).	I
2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine (2C–C) (7519).	I

Controlled Substance	Schedule
2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C–N) (7521).	I
2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine (2C–P) (7524).	I
2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine (2C–T–4) (7532).	I
MDPV (3,4-Methylenedioxypyrovalerone) (7535).	I
2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25B–NBOMe) (7536).	I
2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C–NBOMe) (7537).	I
2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I–NBOMe) (7538).	I
Methylone (3,4-Methylenedioxy-N-methylcathinone) (7540).	I
Butylone (7541)	I
Pentylone (7542)	I
alpha-pyrrolidinopentiophenone (α-PVP) (7545).	I
alpha-pyrrolidinobutiophenone (α-PBP) (7546).	I
AM–694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole) (7694).	I
Acetyldihydrocodeine (9051)	I
Benzylmorphine (9052)	I
Codeine-N-oxide (9053)	I
Desomorphine (9055)	I
Codeine methylbromide (9070)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Hydromorphinol (9301)	I
Methyldesorphine (9302)	I
Methyldihydromorphine (9304)	I
Morphine methylbromide (9305)	I
Morphine methylsulfonate (9306)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Acetylmethadol (9601)	I
Allylprodine (9602)	I
Alphacetylmethadol except levo-alphacetylmethadol (9603).	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Betacetylmethadol (9607)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Dipipanone (9622)	I
Hydroxypethidine (9627)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Trimeperidine (9646)	I
Phenomorphan (9647)	I
1-Methyl-4-phenyl-4-propionoxypiperidine (9661).	I
Tilidine (9750)	I
Para-Fluorofentanyl (9812)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Acetyl-alpha-methylfentanyl (9815).	I
Beta-hydroxyfentanyl (9830)	I
Beta-hydroxy-3-methylfentanyl (9831).	I
Alpha-methylthiofentanyl (9832)	I
3-Methylthiofentanyl (9833)	I
Thiofentanyl (9835)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Lisdexamfetamine (1205)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Alphaprodine (9010)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Ecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Metazocine (9240)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Racemethorphan (9732)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacture small quantities of the listed controlled substances to make reference standards which will be distributed to their customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01300 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Apertus Pharmaceuticals

ACTION: Notice of registration.

SUMMARY: Apertus Pharmaceuticals applied to be registered as a manufacturer of a certain basic class of controlled substance. The DEA grants Apertus Pharmaceuticals registration as a manufacturer of the controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32321, Apertus Pharmaceuticals, 331 Consort Drive, St. Louis, Missouri 63011, applied to be registered as a manufacturer of a certain basic class of controlled substance. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Apertus Pharmaceuticals to manufacture the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of Remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to manufacture small quantities of the listed controlled substance to make reference standards for distribution to their customers.

On March 27, 2014, Apertus Pharmaceuticals withdrew its request for the addition of Alfentanil (9737), Sufentanil (9740), and Fentanyl (9801) to this registration.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01306 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Boehringer Ingelheim Chemical, Inc.

ACTION: Notice of registration.

SUMMARY: Boehringer Ingelheim Chemical, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Boehringer Ingelheim Chemical, Inc. registration as a manufacturer of the controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32321, Boehringer Ingelheim Chemical, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805–9372, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Boehringer Ingelheim Chemical, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances:

Controlled substance	Schedule
Amphetamine (1100)	II
Methylphenidate (1724)	II
Methadone (9250)	II
Methadone Intermediate (9254)	II

The company plans to manufacture the listed controlled substances in bulk for sale to its customers for formulation into finished pharmaceuticals. In reference to methadone intermediate (9254) the company plans to produce methadone HCL active pharmaceutical ingredients (APIs) for sale to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01289 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: S & B Pharma, Inc.

ACTION: Notice of registration.

SUMMARY: S & B Pharma, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants S & B Pharma, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated July 1, 2014, and published in the **Federal Register** on July 8, 2014, 79 FR 38564, S & B Pharma, Inc., DBA Norac Pharma, 405 South Motor Avenue, Azusa, California 91702–3232 applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of S & B Pharma, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled Substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Tetrahydrocannabinols (7370)	I
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Nabilone (7379)	II
4-Anilino-N-phenethyl-4-piperidine (ANPP) (8333).	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for use in product development and for commercial sales to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01287 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Research Triangle Institute

ACTION: Notice of registration.

SUMMARY: Research Triangle Institute applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Research Triangle Institute registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated July 2, 2014, and published in the **Federal Register** on July 14, 2014, 79 FR 40781, Research Triangle Institute, Kenneth S. Rehder, Ph.D., Hermann Building East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Research Triangle Institute to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Cocaine (9041)	II

The company will manufacture marihuana and cocaine derivatives for use by their customers in analytical kits, reagents, and reference standards as directed by the National Institute on Drug Abuse.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01301 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Noramco, Inc.

ACTION: Notice of registration.

SUMMARY: Noramco, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Noramco, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION:

By notice dated January 14, 2014, and published in the **Federal Register** on January 22, 2014, 79 FR 3627, Noramco, Inc., 500 Swedes Landing Road, Wilmington, Delaware 19801–4417, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice. The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Noramco, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Codeine-N-oxide (9053)	I
I=≥01≥≤Dihydromorphine (9145)	I
Morphine-N-oxide (9307)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II
Phenylacetone (8501)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, powdered (9639)	II
Opium, granulated (9640)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Dated: January 9, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01303 Filed 1–23–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1680]

Offender Tracking Systems Market Survey

AGENCY: National Institute of Justice, DOJ.

ACTION: Notice of Request for Information.

SUMMARY: The National Institute of Justice (NIJ) is soliciting information in relation to the upcoming National Criminal Justice Research, Test, and Evaluation Center (NIJ RT&E Center) ''Market Survey of Location-based Offender Tracking Technologies.'' This market survey will be published by NIJ to assist prospective agencies in their assessment of relevant information on commercially available offender tracking systems (OTS) marketed for use by the criminal justice community, prior to making purchasing decisions. The NIJ RT&E Center invites comments with regard to the market survey, including which categories of information are appropriate for comparison. Vendors of such technology are also invited to provide promotional material (*e.g.,* slick sheet) and images of the technology (*e.g.,* a print-quality photograph).

DATES: Responses to this request will be accepted through 11:59 p.m. Eastern Time on February 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 ''OTS Federal Register Response''. Questions and responses may also be sent by mail (please allow additional time for processing) to the address: National Criminal Justice Research, Test and Evaluation Center, ATTN: OTS Federal Register Response, Johns Hopkins University Applied Physics Laboratory, 11100 Johns Hopkins Road, Mail Stop 17N444, Laurel, MD 20723–6099.

FOR FURTHER INFORMATION CONTACT: For more information on this request for information contact Steven Taylor (NIJ RT&E Center) at (443) 778–9348 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, by telephone at 202–616–2911 or by email 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 Location-based Offender Tracking Technologies.'' This technology, consisting of hardware and software component, is designed to determine and report at programmed intervals the geographic location at a particular time of an individual who is subject to criminal justice system supervision. Whether an agency faces a mandate to track domestic violence or sex offenders, has a need to more closely monitor higher risk offenders, or is looking for confinement alternatives for low-risk offenders, this technology can often be a practical tool for supervising and managing select individuals.

This market survey will be published by NIJ to assist prospective agencies in their assessment of relevant information on commercially available OTS marketed for use by the criminal justice community, prior to making purchasing decisions. Vendors who respond to this

request for information are invited to provide general comments with regard to the market survey for the NIJ RT&E Center to consider, including which categories of information are appropriate for comparison, as well as promotional material (*e.g.,* slick sheet) and images of the technology (*e.g.,* a print-quality photograph).

The NIJ RT&E Center intends to include, at a minimum, the following categories of information for each vendor and OTS model, service, or product:

1. Vendor Information
   a. Name
   b. Years your company has been in business
2. Product Information
   a. Types of equipment or products that are offered (*e.g.,* new, used, refurbished, leased, etc.)
   b. Name and model number (*e.g.,* device, monitoring software application, home monitoring unit, etc.)
   c. Multi-piece or one-piece configuration
   d. Physical dimensions (height X width X depth, in inches) of device (with strap, and included battery) or component
   e. Weight (in ounces) of device with strap and included battery
   f. Depth to which device is waterproof (in feet)
   g. Type of tracking (*e.g.,* active, passive, or hybrid)
   h. Location where system stores zone and schedule information (*e.g.,* onboard or monitoring software application)
   i. Location on the body where the device is worn
   j. Battery discharge time (hours of continuous operation before needing a charge)
   k. Battery shelf life (in months)
   l. Battery recharge time (hours required to fully charge battery after complete discharge)
   m. Battery replacement procedure and where it must be done (*e.g.,* field or factory)
   n. Availability of supplemental charger for emergency battery charging (*e.g.,* hand crank, backup battery, solar, etc.)
   o. Onboard memory storage (quantity of data that can be stored on device in number of files/alerts/days activity)
   p. Frequencies on which the device components operate (cite FCC part number)
   q. Type(s) of technology used to geo-locate the offender (*e.g.,* GPS, WiFi, RF, cellular triangulation, etc.)
   r. Mechanism by which data is transmitted to the monitoring software (*e.g.,* cellular, WiFi, landline, etc.)
   s. Auxiliary equipment (*e.g.,* car chargers, emergency chargers, beacons, etc.)
   t. Manufacturer suggested retail price, without optional features, accessories or service plans
   u. Type and duration of warranty provided on the device(s) that you offer (*e.g.,* what is covered in a standard warranty vs. what is covered in an optional or extended warranty)
   v. Means and frequency of monitoring center and monitoring software application backup
   w. Length of time data is retained in archives (in years)
   x. Any additional information not covered above
3. Usability
   a. Types of processes used to ensure usability of hardware and software products (*e.g.,* requirements gathering, observation, task analysis, interaction design, usability testing, ergonomics, etc.)
   b. Types of data gathered from the user community (*e.g.,* interviews, observations during hands-on training, survey, satisfaction surveys, repeat customers, etc.) to evaluate your products, and how often it is collected
   c. Types of user-group meetings and frequency of their occurrence
   d. Types of embedded templates supported by software (*e.g.,* new offender, alert types, etc.)
   e. Hours of technology support and location (*e.g.,* telephone or at agency)
   f. Hours of operation of monitoring center
   g. Hours and type of training provided (*e.g.,* on-site, web-based, pre-recorded, play environment etc.)
   h. Types of post-training help and tutorials available
4. Features and Functions
   a. Maximum number of tracking devices that can be concurrently monitored by the monitoring/tracking software
   b. Number of data points per minute at which data:
   i. Is collected by the device
   ii. Is reported to the monitoring software
   c. Type of interoperability embedded in the design of the data and device output (*e.g.,* other vendor software, other vendor devices, data standards with which the output is compliant, etc.)
   d. Types of alerts (*e.g.,* exclusion zone or schedule violations, strap tamper or bracelet removal, low battery, loss of signal, communication failure, etc.) and way they are differentiated (*e.g.,* do all alerts come up ''Alert'' or ''Cause + Alert'')
   e. Types of communication alerts to offenders (*e.g.,* light, vibration, two-way communication, etc.)
   f. Single or multiple mechanisms for tamper detection of device or strap circumvention
   g. Types of acknowledgement by offender of an alert (*e.g.,* one-way/two-way communications for offender, telephone, etc.)
   h. Ability to notify/alert victims of domestic violence
   i. Types of mobile monitoring software applications to transmit alerts to personnel in the field
   j. Types of analytical capabilities to check tracking (*e.g.,* crime-scene correlation, offender congregation, time and duration differentiators, etc.)
   k. Types of real-time monitoring features (*e.g.,* monitored offender's location can be ascertained on demand)
   l. Types of reports that are available (*e.g.,* standard information examples, extent that reports are customizable, inclusion of maps, etc.)
   m. Types of on-demand custom reports
   n. Other unique features not covered above
5. Performance and Security
   a. Average time to install and activate device (in minutes)
   b. Range in performance of locational accuracy indoor and outdoor (in feet)
   c. False positive (alert generated when it should not have been) and false negative (alert was not generated when it should have been) rates
   d. Mean time to failure
   e. Minimum data collection rate (*e.g.,* once/minute)
   f. Minimum number of data storage, in days, (*e.g.,* seven, ten, or fourteen days)
   g. Mean length of time from alert to notification
   h. Security mechanisms against GPS or communication channel jamming, shielding, interception, or spoofing
   i. Data protection mechanism while in transit and during storage (*e.g.,* SSL, encryption, password strength, etc.)
   j. Types of database change record maintenance practices for historical data
   k. Mechanism for maintaining

confidentiality of personally identifiable information about the individual being monitored

William J. Sabol,

Acting Director, Bureau of Justice Statistics and National Institute of Justice.

[FR Doc. 2015–01235 Filed 1–23–15; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0125]

On-site Consultation Programs; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements contained in the Standard addressing On-site Consultation Programs (29 CFR part 1908).

DATES: Comments must be submitted (postmarked, sent, or received) by March 27, 2015.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0125, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2011–0125) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Patrick Showalter at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Patrick Showalter, Director, Office of Small Business Assistance, Directorate of Cooperative and State Programs, OSHA, U.S. Department of Labor, Room N–3660, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2220.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance process to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Section 7(c)(1) of the OSH Act authorizes the Secretary of Labor to, ''with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement.'' Section 21(c) of the OSH Act authorizes the Secretary of Labor (Secretary) to, ''consult with and advise employers and employees . . . as to effective means of preventing occupational illnesses and injuries.''

Additionally, Section 21(d) of the OSH Act instructs the Secretary to ''establish and support cooperative agreements with the States under which employers subject to the Act may consult with State personnel with respect to the application of occupational safety and health requirements under the Act or under State plans approved under section 18 of the Act.'' This gives the Secretary authority to enter into agreements with the States to provide on-site consultation services, and establish rules under which employers may qualify for an inspection exemption. To satisfy the intent of these and other sections of the OSH Act, OSHA codified the terms that govern cooperative agreements between OSHA and State governments whereby State agencies provide on-site consultation services to private employers to assist them in complying with the requirements of the OSH Act. The terms were codified as the Consultation Program regulations (29 CFR part 1908).

The On-site Consultation Program regulations specify services to be provided, and practices and procedures to be followed by the State On-site Consultation Programs. Information collection requirements set forth in the On-site Consultation Program regulations are in two categories: State Responsibilities and Employer Responsibilities. Eight regulatory provisions require information collection activities by the State. The Federal government provides 90 percent of the funds for on-site consultation services delivered by the States, which result in the information collection. Four requirements apply to employers and specify conditions for receiving the free consultation services.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the

Agency's functions, including whether the information is useful;

- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting an extension of its current approval of the information collection requirements for this Standard. The Agency is requesting an adjustment decrease in the current burden hours from 222,924 hours to 201,853 hours, a total decrease of 21,071 hours. While better burden hour and costs estimates for the Safety and Health Achievement Recognition Program (SHARP) documentation increased the burden hours, this was offset by a decrease in the number of consultation visits.

Type of Review: Extension of a currently approved collection.

Title: On-site Consultation Programs (29 CFR part 1908).

OMB Number: 1218–0110.

Affected Public: Business or other for-profits.

Number of Respondents: 24,700.

Frequency: Initial, annual, quarterly, periodic.

Average Time per Response: Varies from 3 minutes for an employer or plant manager to sign a Safety and Health Achievement Recognition Program application to 32 hours for an On-site Consultation Program manager to submit an agreement once per year.

Estimated Total Burden Hours: 201,853.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0125). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350; (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on January 21, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2015–01328 Filed 1–23–15; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Engineering (CEOSE) Advisory Committee Meeting (#1173)

Dates/Time: February 25, 2015 1:00PM–5:00 p.m. February 26, 2015 8:30a.m.–3:30 p.m.

Place: National Science Foundation (NSF), 4201 Wilson Boulevard, Arlington, VA 22230

To help facilitate your entry into the building, please contact Vickie Fung (*vfung@nsf.gov*) on or prior to February 23, 2015.

Type of Meeting: Open

Contact Person: Dr. Bernice Anderson, Senior Advisor and CEOSE Executive Secretary, Office of International and Integrative Activities (IIA), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone Numbers: 703–292–8040 *banderso@nsf.gov*

Minutes: Meeting minutes and other information may be obtained from the CEOSE Executive Secretary at the above address or the Web site at *http://www.nsf.gov/od/iia/activities/ceose/index.jsp*

Purpose of Meeting: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning broadening participation in science and engineering.

Agenda: Opening Statement by the CEOSE Chair NSF Executive Liaison Report Discussions:

- Leadership Panel Discussion: FY2015 Broadening Participation Efforts
- NSF Broadening Participation Framework for Action
- Partnering to Further the Diversification of the STEM Workforce
- Accessibility and Careers in STEM
- Gender Dimension in Research Content and Process
- Reports of CEOSE Liaisons to NSF Advisory Committees
- 2013–2014 CEOSE Biennial Report to Congress
- Updates from the Federal Liaisons

Dated: January 21, 2015.

Suzanne Plimpton,

Acting Committee Management Officer.

[FR Doc. 2015–01322 Filed 1–23–15; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board: Notice of Change

The National Science Board's *ad hoc* Working Group on Administrative

Burdens (AB), pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of a change in the scheduling of a teleconference for the transaction of National Science Board business, as follows: The original Notice was published in the **Federal Register** on January 20, 2015.

ORIGINAL DATE & TIME: Friday, January 23, 2015, 12–1 p.m., EST.

NEW DATE & TIME: Friday, January 23, 2015, 12:30—1:30 p.m., EST.

SUBJECT MATTER: Chairman's remarks; update on NSF implementation of Uniform Guidance and Administrative Burdens Task Force recommendations; and draft comments on proposed National Institutes of Health multisite Institutional Review Board policy.

STATUS: Open.

This meeting will be held by teleconference. A public listening line will be available. Members of the public must contact the Board Office (call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the teleconference for the public listening number. Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting) which may be found at *http://www.nsf.gov/nsb/notices/.* Point of contact for this meeting is Jacqueline Meszaros at *jmeszaro@nsf.gov.*

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2015–01383 Filed 1–22–15; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0214]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on October 9, 2014.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 396, ''Certification of Medical Examination by Facility Licensee.''

3. *Current OMB approval number:* 3150–0024.

4. *The form number if applicable:* NRC Form 396.

5. *How often the collection is required:* Upon application for an initial or upgrade license; every 6 years for the renewal of an operator or senior operator license, and notices of disability that occur during licensed tenure.

6. *Who will be required or asked to report:* Facility licensees who are tasked with certifying the medical fitness of applicants and operator licensees.

7. *An estimate of the number of annual responses:* 2,131.

8. *The estimated number of annual respondents:* 131.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,968 hours (1,668 Reporting Hours and 300 Recordkeeping Hours).

10. *Abstract:* The NRC Form 396 is used to transmit information to the NRC regarding the medical condition of applicants for initial operator licenses or renewal of operator licenses and for the maintenance of medical records for all licensed operators. The information is used to determine whether the physical condition and general health of applicants for operator licenses and licensed operators are such that the applicant/operator would not be expected to cause operational errors endangering public health and safety.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by February 25, 2015. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0024), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Vladik_Dorjets@omb.eop.gov* or submitted by telephone at 202–395–7315.

The NRC Clearance Officer is Tremaine Donnell, telephone: 301–415–6258.

Dated at Rockville, Maryland, this 20th day of January, 2015.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2015–01222 Filed 1–23–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0001]

Sunshine Act Meeting Notice

DATE: January 26, February 2, 9, 16, 23, March 2, 2015.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of January 26, 2015

Thursday, January 29, 2015

9 a.m. Briefing on Foreign Ownership, Control, and Domination (Public Meeting) (Contact: Shawn Harwell, 301–415–1309)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 2, 2015—Tentative

Monday, February 2, 2015

1 p.m. Discussion of International Activities (Closed—Ex. 9)

Wednesday, February 4, 2015

8:30 a.m. Hearing on Combined License for Fermi, Unit 3 (Public Meeting) (Contact: Adrian Muniz, 301–415–4093)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of February 9, 2015—Tentative

There are no meetings scheduled for the week of February 9, 2015.

Week of February 16, 2015—Tentative

Wednesday, February 18, 2015

9:30 a.m. Briefing on NRC International Activities (Closed—Ex. 9)

Week of February 23, 2015—Tentative

There are no meetings scheduled for the week of February 23, 2015.

Week of March 2, 2015

There are no meetings scheduled for the week of March 2, 2015.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at (301) 415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Patricia.Jimenez@nrc.gov* or *Brenda.Akstulewicz@nrc.gov.*

Dated: January 22, 2015.

Richard J. Laufer,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2015–01405 Filed 1–22–15; 4:15 pm]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is creating a new information collection for OMB review and approval and requests public review and comment on the submission. OPIC received no comments in response to the sixty (60) day notice published in **Federal Register** volume 79 page 68492 on November 17, 2014. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of OPIC's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within thirty (30) calendar days of publication of this Notice.

ADDRESSES: Mail all comments and requests for copies of the subject form to OPIC's Agency Submitting Officer: James Bobbitt, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527. See **SUPPLEMENTARY INFORMATION** for other information about filing.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: James Bobbitt, (202) 336–8558.

SUPPLEMENTARY INFORMATION: All mailed comments and requests for copies of the subject form should include form number [OPIC–256] on both the envelope and in the subject line of the letter. Electronic comments and requests for copies of the subject form may be sent to *James.Bobbitt@opic.gov,* subject line [OPIC–256].

Summary Form Under Review

Type of Request: New information collection.

Title: Investment Funds Department Questionnaire.

Form Number: OPIC–256.

Frequency of Use: Once per investor per Call for Proposals.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 131.25 hours (0.75 hours per response).

Number of Responses: 175 per year.

Federal Cost: $6,683.25.

Authority for Information Collection: Sections 231, 234(b), and 239(d) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The questionnaire is the principal document used by OPIC to determine the investor's and the project's eligibility for OPIC funding, and to collect information for financial underwriting analysis.

Dated: January 20, 2015.

Nichole Cadiente,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2015–01243 Filed 1–23–15; 8:45 am]

BILLING CODE 3210–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Designation of Beneficiary, Federal Employees Retirement System; FERS SF 3102, 3206–0173

AGENCY: Office of Personnel Management.

ACTION: 30-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 an extension, without change, of a currently approved information collection request (ICR) 3206–0173, Designation of Beneficiary (FERS). 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. The information collection was previously published in the **Federal Register** on May 30, 2014 at Volume 79 FR 31146 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until February 25, 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 the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_*

submission@omb.eop.gov or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

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 the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

SF 3102 is used by an employee or an annuitant covered under the Federal Employees Retirement System to designate a beneficiary to receive any lump sum due in the event of his/her death.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Designation of Beneficiary (FERS).

OMB Number: 3206–0173.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 3,888.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 972.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2015–01340 Filed 1–23–15; 8:45 am]

BILLING CODE P

POSTAL REGULATORY COMMISSION

[Docket No. R2015–4; Order No. 2327]

Market Dominant Price Adjustment

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service notice announcing inflation-based rate adjustments affecting market dominant domestic and international products and services, along with four temporary mailing promotions and numerous proposed classification changes. The adjustments and other changes are scheduled to take effect April 26, 2015. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 4, 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:

Table of Contents

I. Introduction
II. Overview
III. Initial Administrative Actions
IV. Ordering Paragraphs

I. Introduction

On January 15, 2015, the Postal Service filed a notice of inflation-based rate adjustments affecting market dominant domestic and international products and services, along with four temporary mailing promotions and numerous proposed classification changes.[1] The intended effective date is April 26, 2015. Notice at 1.

The Notice, which was filed pursuant to 39 U.S.C. 3622 and 39 CFR part 3010, triggers an expedited notice-and-comment proceeding.[2] The Notice is also more complex than the typical annual adjustment filing due to the impact of surcharges associated with the exigent rate case (Docket No. R2013–11) and the issue of rate design, especially new and merged rate cells.[3] The Postal Service addresses the impact on rate design in its Notice. Notice at 16–17. The Postal Service also presents two sets of rates: With and without the exigent surcharges. See *id.,* Attachment A, Part I and Part II.

II. Overview

A. Filing Details

Contents in general. The Postal Service's filing consists of a detailed Notice which addresses the data and information required under 39 CFR 3010.13; five attachments[4] to the Notice; and six sets of workpapers filed as library references.

Attachments. Attachment A, Part I presents the proposed Mail Classification Schedule (MCS) changes (in legislative format) with prices that reflect base (Docket No. R2013–10) prices plus the new proposed increases without the exigent surcharges. Attachment A, Part II presents the MCS changes with prices (base plus the new proposed increases) that include the exigent (Docket No. R2013–11) surcharges.[5] The other attachments address workshare discounts and related information; the price cap calculation; the 2015 mailing promotions and incentives calendar; and adjusted exigent surcharges for new rate cells. See *id.* Attachments B–E, respectively.

Library references. The library references present supporting financial documentation for the five classes of mail and for First-Class Mail International. See Notice at 4–5. The First-Class Mail International Library Reference was filed under seal.[6]

B. Planned Price Adjustments

The Postal Service's planned percentage changes by class are, on average:

Market dominant class	Price adjustment authority (%)
First-Class Mail	1.949
Standard Mail	1.886
Periodicals	1.965

[1] United States Postal Service Notice of Market-Dominant Price Adjustment, January 15, 2015 (Notice). The Notice includes a set of attachments filed as a separate public pdf.

[2] This is a Type 1–A proceeding. See 39 CFR part 3010, subparts A–C for additional information, including the controlling consumer price index, and Notice at 3.

[3] See Docket No. R2013–11, Order No. 1926, Order Granting Exigent Price Increase, December 24, 2013.

[4] Notice, Attachments A–E. Attachment A also assumes First-Class Mail Parcels, which are the subject of a pending transfer request in Docket No. MC2015–7, are a market dominant product. See Notice at 20, n.12.

[5] The Postal Service adopts the November 24, 2014 MCS as the base version for showing proposed changes. See *id.* at 53, n.27.

[6] See Notice of the United States Postal Service of Filing of USPS–LR–R2015–4/NP1, January 15, 2015.

Market dominant class	Price adjustment authority (%)
Package Services	1.964
Special Services	0.234

Notice at 5.

Nature of adjustments. Most of the planned adjustments entail increases to market dominant rates and fees; however, in a few instances, the Postal Service proposes either no adjustment or a decrease. In addition, price adjustments for products within classes vary from the average, sometimes substantially. See, *e.g., id.* at 17, 21 (Table 5 showing range for First-Class Mail products) and (Table 7 showing range for Standard Mail products).

Proposed classification changes. The Postal Service proposes numerous classification changes in its Notice. *Id.* at 53–55. It identifies the impact on the MCS in Attachment A, Part I and Part II.

Calendar year promotions. The Postal Service seeks approval for the following four promotions for the periods indicated:

- Earned Value Reply Mail Promotion (May–July 2015);
- Advanced and Emerging Technology Promotion (May–October 2015);
- Color Transpromo Promotion (June–November 2015); and
- Mail Drives Mobile Engagement Promotion (July–December 2015).

Id. at 7–8.

Note to all interested persons. The Notice and related filings, including library references, provide important additional details concerning the planned adjustments, mailing promotions, and classification changes. The Commission strongly encourages interested persons to carefully review the Notice and all related filings, including new MCS language relating to changes corresponding to the exigent surcharges, and to monitor the Commission's Web site for additional information, including potential revisions to the Notice.

III. Initial Administrative Actions

Public notice. The Commission hereby provides public notice of the Postal Service's filing and pursuant to rule 3010.14 establishes Docket No. R2015–4 to consider the planned price adjustments in rates and fees for market dominant postal products and services, as well as the related classification changes, identified in the Postal Service's January 15, 2015 Notice. The Commission invites comments from interested persons on whether the Notice is consistent with 39 U.S.C. 3622 and the requirements of 39 CFR part 3010. Comments are due no later than February 4, 2015.

Availability of documents. The Commission has posted the public portions of the Postal Service's filing on its Web site at *http://www.prc.gov.* The Commission will post revisions to the filing (if any) or other documents the Postal Service submits in this docket on its Web site, along with related Commission documents, comments, or other submissions, unless such filings are the subject of an application for non-public treatment. The Commission's policy on access to documents filed under seal appears in 39 CFR part 3007.

Public Representative. Pursuant to 39 U.S.C. 505, the Commission appoints James Waclawski to represent the interests of the general public (Public Representative) in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2015–4 to consider planned price adjustments in rates and fees for market dominant postal products and services and related classification changes identified in the Postal Service's January 15, 2015 Notice.

2. Comments on the planned price adjustments and related classification changes are due no later than February 4, 2015.

3. Pursuant to 39 U.S.C. 505, James Waclawski is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

5. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–01238 Filed 1–23–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

New Mailing Standards for Lithium Batteries

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service will revise Publication 52, *Hazardous, Restricted, and Perishable Mail* (Publication 52), in various sections to provide new standards for the mailing of lithium batteries. Publication 52 was developed to provide expanded requirements for the mailing of hazardous, restricted, and perishable materials.

DATES: *Effective date:* March 2, 2015.

FOR FURTHER INFORMATION CONTACT: Joan Hall (212) 330–5332 or Kevin Gunther (202) 268–7208.

SUPPLEMENTARY INFORMATION:

Overview

U.S. Postal Service® Publication 52 provides mailing standards specific to hazardous, restricted and perishable items and materials. Pursuant to the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) 601.8.2, Publication 52 applies to the mailability of hazardous materials, including lithium batteries.

Revisions to Publication 52

The Postal Service is making these revisions in order to align with the Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA) recent changes to regulations for the transportation of lithium batteries.

On August 6, 2014, PHMSA issued a final rule (79 FR 46012–46040) titled ''*Hazardous Materials: Transportation of Lithium Batteries''* in which it describes new requirements governing the shipment of lithium cells and batteries for both air and surface transportation. In this final rule, PHMSA revises hazard communication and packaging provisions for lithium batteries and harmonizes the Hazardous Materials Regulations (HMR) with applicable provisions of the United Nations (UN) Model Regulations, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) and the International Maritime Dangerous Goods (IMDG) Code.

With these revisions, the Postal Service aligns with PHMSA and the other regulatory entities noted above with regard to:

1. Use of terminology describing lithium content with watt-hours for lithium-ion cells and batteries;
2. Adoption of separate shipping descriptions for lithium metal batteries and lithium-ion batteries;
3. New requirements for the transport of small lithium cells and batteries contained in equipment; and
4. New marking requirements and options for lithium batteries installed in equipment packaged with equipment and shipped without equipment.

In the development of mailing standards for lithium cells and batteries in air transportation, the Postal Service

aligns with PHMSA regulations applicable to passenger aircraft, as Postal Service products eligible for transportation by air continue to have the potential to be placed on passenger aircraft.

Definitions

The Postal Service also adds a new definitions section and revises its terminology with regard to lithium cells and batteries to better reflect what is commonly used in the industry and by other regulatory agencies.

International

The Postal Service clarifies that labels commonly used with other transportation providers are not permitted on mailpieces containing lithium batteries installed in equipment, when these mailpieces are intended for international mail. It has been a common practice for some high volume lithium battery shippers to preprint DOT-approved lithium battery handling labels on all of their packaging, including those intended for international mail. When mailing to international destinations, including APO/FPO/DPO (Army Post Office, Fleet Post Office, Diplomatic Post Office) destinations, mailpieces containing lithium batteries installed in equipment must not include any markings or labels that identify the mailpiece contents as lithium batteries. The Postal Service also defines a category of very small lithium metal and lithium-ion cells and batteries that, when installed in the equipment they operate, are mailable in international mail without regard to quantity.

Lithium Battery Handling Label
(*Prohibited in international mail*)

Quantities

With this revision, the Postal Service will not require markings or documentation for parcels containing button cell lithium batteries installed in equipment (including circuit boards) or no more than four (4) lithium cells or two (2) lithium batteries installed in equipment. For these shipments, the Postal Service will allow the optional use of an applicable DOT-approved lithium battery handling labels in either domestic air or surface transportation. The Postal Service will require markings and documentation as described in this final rule for lithium batteries installed in equipment in domestic air transportation when the number of cells exceeds four (4) up to the allowable limit for air transportation of eight (8) cells.

The Postal Service will continue to allow mailings of lithium metal or lithium-ion batteries packaged with the equipment they operate, and lithium-ion batteries packaged without equipment (individual batteries) in domestic air transportation. In these instances, mailpieces must not contain more than eight (8) lithium cells or two (2) batteries. Cells and batteries must be within the applicable USPS limitations for lithium metal content or watt-hour rating, and mailpieces must bear markings and be accompanied by documentation as described below. Mailers should also note that for the purposes of mailability, when a limitation of eight (8) cells or two (2) batteries is applicable, the mailpiece is restricted to a maximum of either 8 cells or 2 batteries, not both.

Markings

In addition to the marking requirements currently described in Publication 52, lithium cells or batteries mailed with (but not installed in) equipment or mailed without equipment (individual batteries) must be enclosed in strong outer packaging, and must be marked with:

a. An indication that the package contains ''lithium metal'' or ''lithium-ion'' cells or batteries, as appropriate.

b. An indication that the package is to be handled with care and that a flammable hazard exits if the package is damaged.

c. An indication that special procedures must be followed in the event the package is damaged, to include inspection and repacking, if necessary.

d. A telephone number for additional information.

e. Mailpieces containing lithium metal batteries not installed in, or packaged with equipment must also bear a ''Surface Mail Only, Lithium Metal Batteries — Forbidden for Transportation Aboard Passenger Aircraft'' or ''Surface Mail Only, Primary Lithium Batteries — Forbidden for Transportation Aboard Passenger Aircraft'' marking.

f. Mailers may use a DOT-approved lithium battery handling label, in domestic air or surface transportation, to meet these marking requirements, provided all required elements are included.

Documentation

In addition to the marking requirements noted above, mailpieces containing lithium batteries packaged with equipment or mailed without equipment must be accompanied by a document that includes the following:

a. An indication that the package contains ''lithium metal'' or ''lithium-ion'' cells or batteries, as appropriate.

b. An indication that the package is to be handled with care and that a flammable hazard exits if the package is damaged.

c. An indication that special procedures must be followed in the event the package is damaged, to

include inspection and repacking, if necessary.

d. A telephone number for additional information.

The specific revisions to Publication 52, *Hazardous, Restricted, and Perishable Mail* referenced in this notice will be published in *Postal Bulletin* 22408 on February 5, 2015, and can be viewed at *http://about.usps.com/postal-bulletin.* These revisions are expected to be incorporated into the Publication 52 on March 2, 2015. Publication 52 is provided in its entirety on *Postal Explorer®* at *http://pe.usps.com/text/pub52/welcome.htm.*

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–01346 Filed 1–23–15; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICRdescribes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. Title and purpose of information collection: Application for Benefits Due But Unpaid at Death; OMB 3220–0055.

Under Section 2(g) of the Railroad Unemployment Insurance Act, benefits that accrued but were not paid because of the death of the employee shall be paid to the same individual(s) to whom benefits are payable under Section 6(a)(1) of the Railroad Retirement Act. The provisions relating to the payment of such benefits are prescribed in 20 CFR 325.5 and 20 CFR 335.5.

The RRB provides Form UI–63, Application for Benefits Due But Unpaid at Death, to those applying for the accrued sickness or unemployment benefits unpaid at the death of the employee and for obtaining the information needed to identify the proper payee. One response is requested of each respondent. Completion is required to obtain a benefit.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (79 FR 66002 on November 6, 2014) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Application for Benefits Due but Unpaid at Death.

OMB Control Number: 3220–0055.

Form(s) submitted: UI–63.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: The collection obtains the information needed by the Railroad Retirement Board to pay benefits accrued under section 2(g) of the Railroad Unemployment Insurance Act, but not paid because of the death of the employee.

Changes proposed: The RRB proposes no changes to Form UI–63.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI–63	25	7	3

2. Title and Purpose of information collection: Medicare; OMB 3220–0082.

Under Section 7(d) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) administers the Medicare program for persons covered by the railroad retirement system. The RRB uses Form AA–6, Employee Application for Medicare; Form AA–7, Spouse/Divorced Spouse Application for Medicare; and Form AA–8, Widow/Widower Application for Medicare; to obtain the information needed to determine whether individuals who have not yet filed for benefits under the RRA are qualified for Medicare payments provided under Title XVIII of the Social Security Act.

Further, in order to determine if a qualified railroad retirement beneficiary who is claiming supplementary medical insurance coverage under Medicare is entitled to a Special Enrollment Period (SEP) and/or premium surcharge relief because of coverage under an Employer Group Health Plan (EGHP), the RRB needs to obtain information regarding the claimant's EGHP coverage, if any. The RRB uses Form RL–311–F, Evidence of Coverage Under An Employer Group Health Plan, to obtain the basic information needed to establish EGHP coverage for a qualified railroad retirement beneficiary.

Completion of the forms is required to obtain a benefit. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (79 FR 66003 on November 6, 2014) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Medicare.

OMB Control Number: 3220–0082.

Form submitted: AA–6, AA–7, AA–8 and RL–311–F.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households; Businesses or other for profits.

Abstract: The Railroad Retirement Board administers the Medicare program for persons covered by the railroad retirement system. The forms in the collection obtain both information needed to enroll non-retired employees and survivor applicants in the plan and information from railroad employers needed to determine if a railroad retirement beneficiary is entitled to a special enrollment period when applying for supplemental medical coverage under Medicare.

Changes proposed: The RRB proposes no changes to Forms AA–6, AA–7, AA–8 or RL–311–F.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–6	180	8	24
AA–7	50	8	7
AA–8	10	8	1
RL–311–F	2,000	10	333
Total	2,240		365

3. Title and Purpose of information collection: Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings; OMB 3220–0107.

Under Section 2 of the Railroad Retirement Act (RRA), a railroad employee's retirement annuity or an annuity paid to the spouse of a railroad employee is subject to work deductions in the Tier II component of the annuity and any employee supplemental annuity for any month in which the annuitant works for a Last Pre-Retirement Non-Railroad Employer (LPE). The LPE is defined as the last person, company, or institution, other than a railroad employer, that employed an employee or spouse annuitant. In addition, the employee, spouse, or divorced spouse Tier I annuity benefit is subject to work deductions under Section 2(f)(1) of the RRA for earnings from any non-railroad employer that are over the annual exempt amount. The regulations pertaining to non-payment of annuities by reason of work and LPE are contained in 20 CFR 230.1 and 230.2.

The RRB utilizes Form RL–231–F, Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings, to obtain the information needed to determine if a work deduction should be applied because an annuitant worked in non-railroad employment after the annuity beginning date. One response is requested of each respondent. Completion is voluntary.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (79 FR 66003 on November 6, 2014) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Request to Non-Railroad Employer for Information About Annuitant's Work and Earnings.

OMB Control Number: 3220–0107.

Form(s) submitted: RL–231–F.

Type of request: Extension without change of a currently approved collection.

Affected public: Private Sector; Businesses or other for-profits, Not-for-profit institutions.

Abstract: Under the Railroad Retirement Act (RRA), benefits are not payable if an annuitant works for an employer covered under the RRA or last non-railroad employer. The collection obtains information regarding an annuitant's work and earnings from a non-railroad employer. The information is used to determine whether benefits should be withheld.

Changes proposed: The RRB proposes no changes to Form RL–231–F.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL–231–F	300	30	150

4. Title and Purpose of information collection: Gross Earnings Report; OMB 3220–0132.

In order to carry out the financial interchange provisions of section 7(c)(2) of the Railroad Retirement Act (RRA), the RRB obtains annually from railroad employer's the gross earnings for their employees on a one-percent basis, *i.e.,* 1% of each employer's railroad employees. The gross earnings sample is based on the earnings of employees whose social security numbers end with the digits ''30.'' The gross earnings are used to compute payroll taxes under the financial interchange.

The gross earnings information is essential in determining the tax amounts involved in the financial interchange with the Social Security Administration and Centers for Medicare and Medicaid Services. Besides being necessary for current financial interchange calculations, the gross earnings file tabulations are also an integral part of the data needed to estimate future tax income and corresponding financial interchange amounts. These estimates are made for internal use and to satisfy requests from other government agencies and interested groups. In addition, cash flow projections of the social security equivalent benefit account, railroad retirement account and cost estimates made for proposed amendments to laws administered by the RRB are dependent on input developed from the information collection.

The RRB utilizes Form BA–11 to obtain gross earnings information from railroad employers. Employers have the option of preparing and submitting BA–11 reports online via the RRB's Employer Reporting System or on paper (or in like format) on magnetic tape cartridges, by File Transfer Protocol (FTP), or secure Email. The online BA–11 includes the option to file a ''negative report'' (no employees, or no employees with the digits ''30''). Completion is mandatory. One response is requested of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (79 FR 66003 on November 6, 2014) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Gross Earnings Report.

OMB Control Number: 3220–0132.

Form(s) submitted: BA–11, BA–11 (Internet).

Type of request: Revision of a currently approved collection.

Affected public: Private Sector; Businesses or other for-profits.

Abstract: Section 7(c)(2) of the Railroad Retirement Act requires a financial interchange between the OASDHI trust funds and the railroad retirement account. The collection obtains gross earnings of railway employees on a 1% basis. The information is used to determine the amount which would place the OASDHI

trust funds in the position they would have been if railroad service had been covered by the Social Security and FIC Acts.

Changes proposed: The RRB proposes to formally eliminate the paper and magnetic tape cartridge versions of Form BA–11 from the information collection.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
BA–11 File Transfer Protocol	7	300 (5 hours)	35
BA–11 CD–ROM	5	30	2
BA–11 Secure E-mail	5	30	2
BA–11 (Internet)—Positive	137	30	68
BA–11 (Internet)—Negative	329	15	82
Total	483		189

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2015–01299 Filed 1–23–15; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9707; 34–74106; File No. 265–28]

Investor Advisory Committee Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting. The public is invited to submit written statements to the Committee.

DATES: The meeting will be held on Thursday, February 12, 2015 from 10 a.m. until 4 p.m. (ET). Written statements should be received on or before February 12, 2015.

ADDRESSES: The meeting will be held in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC 20549. The meeting will be webcast on the Commission's Web site at *www.sec.gov.* Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

Paper Statements

- Send paper statements to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Marc Sharma, Senior Special Counsel, Office of the Investor Advocate, at (202) 551–3302, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, except during portions of the meeting reserved for meetings of the Committee's subcommittees. Persons needing special accommodations to take part because of a disability should notify the contact person listed in **FOR FURTHER INFORMATION CONTACT.**

The agenda for the meeting includes: Remarks from Commissioners; a recommendation of the Market Structure subcommittee on shortening the trade settlement cycle; a discussion of proxy access; an update on the rule proposal of the Financial Industry Regulatory Authority (''FINRA'') regarding implementation of the Comprehensive Automated Risk Data System; an update on Municipal Securities Rulemaking Board and FINRA proposals for improved disclosures for same-day, retail-size principal transactions in fixed income securities; and nonpublic subcommittee meetings.

Dated: January 21, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01275 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74098; File No. SR–NSCC–2014–12]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Amend NSCC's Rules and Procedures in Connection With the Discontinuance of the Analytic Reporting Service

January 20, 2015.

I. Introduction

On November 25, 2014, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2014–12 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Change was published for comment in the **Federal Register** on December 12, 2014.[3] The Commission did not receive any comments on the Proposed Rule Change. This order approves the Proposed Rule Change.

II. Description

NSCC filed the Proposed Rule Change to modify its Rules, By-Laws, and Organization Certificate to discontinue the Analytic Reporting Service (''Service''). With the Proposed Rule Change, NSCC seeks to eliminate the Service because there is limited interest and it is not recovering its costs of maintaining the Service.

NSCC launched the Service in 2011 to provide NSCC members (''Members'') access to aggregated-insurance-products information, including benchmarking information and league tables (''Analytics Data'').[4] The Analytics Data comes primarily from data transmitted to NSCC by Members from NSCC's other insurance and retirement service. In 2013, at the request of Members, NSCC enhanced the Service to include insurance-transaction data processed outside of NSCC but submitted to NSCC.[5]

Members access the Service via a paid subscription. However, since its launch, there have been few subscribers, with only 12 Members currently subscribing. As such, NSCC states that it is not recovering the cost of maintaining the Service and proposes to eliminate it.

III. Discussion

Section 19(b)(2)(C) of the Act[6] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[7]

The Commission finds the Proposed Rule Change consistent with the Act. More specifically, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act.[8] By eliminating a service that is not economically efficient to maintain or central to NSCC's core clearing business, NSCC will be able to better allocate its economic resources to support the safeguarding of securities or funds in its custody or control, and promote the prompt and accurate clearance and settlement of securities transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[9] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR–NSCC–2014–12 be, and hereby is, *approved*.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01251 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

[3] Securities Exchange Act Release No. 73779 (December 8, 2014), 79 FR 73938 (December 12, 2014) (SR–NSCC–2014–12).

[4] Securities Exchange Act Release No. 63604 (December 23, 2010), 75 FR 82115 (December 29, 2010) (SR–NSCC–2010–18).

[5] Securities Exchange Act Release No. 69824 (June 21, 2013), 78 FR 38743 (June 27, 2013) (SR–NSCC–2013–08).

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] *Id.*

[9] 15 U.S.C. 78q–1.

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74091; File No. SR–OCC–2014–811]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of an Advance Notice, and Amendment No. 1 Thereto, To Establish Procedures Regarding the Monthly Resizing of its Clearing Fund and the Addition of Financial Resources

January 20, 2015.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'')[1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Exchange Act'')[2] notice is hereby given that on December 1, 2014, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice as described in Items I, II and III below, which Items have been prepared by OCC. On December 16, 2014, OCC filed amendment no. 1 to the advance notice (''Amendment No. 1'').[3] This Amendment No. 1 amends and replaces, in its entirety, the advance notice as originally filed on December 1, 2014. The Commission is publishing this notice to solicit comments on the advance notice, as amended, from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice is filed by OCC in connection with OCC's proposal to establish procedures regarding the monthly resizing of its Clearing Fund and the addition of financial resources through intra-day margin calls and/or an intra-month increase of the Clearing Fund to ensure that it maintains adequate financial resources in the event of a default of a Clearing Member or group of affiliated Clearing Members presenting the largest exposure to OCC.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A) and (B) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants or Others

Written comments on the advance notice were not and are not intended to be solicited with respect to the advance notice and none have been received.

(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

This Amendment No. 1 to SR–OCC–2014–811 (''Filing'') amends and replaces in its entirety the Filing as originally submitted on December 1, 2014. The purpose of this Amendment

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] In Amendment No. 1, OCC amended the advance notice to include the Monthly Clearing Fund Sizing Procedure and the Financial Resource Monitoring and Call Procedure as exhibits to the filing, both defined hereinafter, as Exhibit 5A and Exhibit 5B, respectively. OCC has requested confidential treatment for Exhibit 5A and Exhibit 5B pursuant to the Rule 24b–2 under the Exchange Act.

No. 1 to the Filing is to include the procedures that support the processes described in Item 3 of the Filing as Exhibit 5A, Monthly Clearing Fund Sizing Procedure, and Exhibit 5B, Financial Resources Monitoring and Call Procedure.

The proposed change would establish new procedures regarding the monthly resizing of the Clearing Fund and the addition of financial resources through intra-day margin calls and/or an intra-month increase of the Clearing Fund to ensure that OCC maintains adequate Financial Resources in the event of a default of a Clearing Member or group of affiliated Clearing Members presenting the largest exposure to OCC.

Purpose of the Proposed Change

The proposed change is intended to describe the situations in which OCC would exercise authority under its Rules to ensure that it maintains adequate Financial Resources [4] in the event that stress tests reveal a default of the Clearing Member or Clearing Member Group [5] presenting the largest exposure would threaten the then-current Financial Resources. This proposed change would establish procedures governing: (i) OCC's resizing of the Clearing Fund on a monthly basis pursuant to Rule 1001(a) (the ''Monthly Clearing Fund Sizing Procedure''); and (ii) the addition of Financial Resources through an intra-day margin call on one or more Clearing Members under Rule 609 and, if necessary, an intra-month increase of the Clearing Fund pursuant to Rule 1001(a) (the ''Financial Resource Monitoring and Call Procedure'').[6] The Monthly Clearing Fund Sizing Procedure would permit OCC to determine the size of the Clearing Fund by relying on a broader range of sound risk management practices than those historically used under Rule 1001(a).[7] The Financial Resource Monitoring and Call Procedure would require OCC to collect additional Financial Resources in certain circumstances, establish how OCC calculates and collects such resources and provide the timing by which such resources would be required to be deposited by Clearing Members.

Background

OCC monitors the sufficiency of the Clearing Fund on a daily basis but, prior to emergency action taken on October 15, 2014,[8] OCC had no express authority to increase the size of the Clearing Fund on an intra-month basis.[9] During ordinary course daily monitoring on October 15, 2014, and as a result of increased volatility in the financial markets in October 2014, OCC determined that the Financial Resources needed to cover the potential loss associated with a default of the Clearing Member or Clearing Member Group presenting the largest exposure could have exceeded the Financial Resources then available to apply to such a default.

To permit OCC to increase the size of its Clearing Fund prior to the next monthly resizing that was scheduled to take place on the first business day of November 2014, OCC's Executive Chairman, on October 15, 2014, exercised certain emergency powers as set forth in Article IX, Section 14 of OCC's By-Laws [10] to waive the effectiveness of the second sentence of Rule 1001(a), which states that OCC will adjust the size of the Clearing Fund monthly and that any resizing will be based on data from the preceding month. OCC then filed an emergency notice with the Commission pursuant to Section 806(e)(2) of the Payment, Clearing and Settlement Supervision Act of 2010 [11] and increased the Clearing Fund size for the remainder of October 2014 as otherwise provided for in the first sentence of Rule 1001(a).[12]

Clearing Members were informed of the action taken by the Executive Chairman [13] and the amount of their additional Clearing Fund requirements, which were met without incident. As a result of these actions, OCC's Clearing Fund for October 2014 was increased by $1.8 billion. In continued reliance on the emergency rule waiver and in accordance with the first sentence of Rule 1001(a), OCC set the November 2014 Clearing Fund size at $7.8 billion, which included an amount determined by OCC to be sufficient to protect OCC against loss under simulated default scenarios (*i.e.,* $6 billion), plus a prudential margin of safety (the additional $1.8 billion collected in October).[14] All required contributions to the November 2014 Clearing Fund were met by affected Clearing Members.

Under Article IX, Section 14(c), absent the submission of a proposed rule change to the Commission seeking approval of OCC's waiver of the provisions of the second sentence of Rule 1001(a), such waiver would not be permitted to continue for more than thirty calendar days from the date thereof.[15] Accordingly, on November 13, 2014, OCC submitted SR–OCC–2014–21 to delete the second sentence of Rule 1001(a) and, by the terms of Article IX, Section 14(c), preserve the suspended effectiveness of the second sentence of Rule 1001(a) beyond thirty calendar days.[16]

SR–OCC–2014–21 was submitted in part to permit OCC to determine the size of its Clearing Fund by relying on a broader range of sound risk management practices than considered in basing such size on the average daily calculations under Rule 1001(a) that are performed during the preceding calendar month. The Monthly Clearing Fund Sizing Procedure, as described below, is based on such broader risk management practices and establishes the procedures

[4] ''Financial Resources'' means, with respect to a projected loss attributable to a particular Clearing Member, the sum of the margin deposits and deposits in lieu of margin in respect of such Clearing Member' accounts, and the value of OCC's Clearing Fund, including both the Base Amount, as defined below, and the prudential margin of safety, as discussed below.

[5] ''Clearing Member Group'' means a Clearing Member and any affiliated entities that control, are controlled by or are under common control with such Clearing Member. *See* OCC By-Laws, Article I, Sections 1.C.(15) and 1.M(11).

[6] This advance notice filing has also been filed as a proposed rule change (SR–OCC–2014–22).

[7] The procedures described herein would be in effect until the development of a new standard Clearing Fund sizing methodology. Following such development, which will include a quantitative approach to calculating the ''prudential margin of safety,'' as discussed below, OCC will file a separate rule change and advance notice with the Commission that will include a description of the new methodology as well as a revised Monthly Clearing Fund Sizing Procedure.

[8] On October 16, 2014, OCC filed an emergency notice with the Commission to suspend the effectiveness of the second sentence of Rule 1001(a). *See* Securities Exchange Act Release No. 73579 (November 12, 2014), 79 FR 68747 (November 18, 2014) (SR–OCC–2014–807). On November 13, 2014, OCC filed SR–OCC–2014–21 with the Commission to delete the second sentence of Rule 1001(a), preserving the suspended effectiveness of that sentence until such time as the Commission approves or disapproves SR–OCC–2014–21. *See* Securities Exchange Act Release No. 73685 (November 25, 2014) (SR–OCC–2014–21). At the time of this filing, the referenced Securities Exchange Act Release had not yet been published in the **Federal Register**.

[9] *See* OCC Rule 1001(a).

[10] OCC also has submitted an advance notice that would provide greater detail concerning conditions under which OCC would increase the size of the Clearing Fund intra-month. The change would permit an intra-month increase in the event that the five-day rolling average of projected draws are 150% or more of the Clearing Fund's then current size. *See* Securities Exchange Act Release No. 72804 (August 11, 2014), 79 FR 48276 (August 15, 2014) (SR–OCC–2014–804).

[11] 12 U.S.C. 5465(e)(2).

[12] *See supra,* note 9.

[13] *See* Information Memorandum #35397, dated October 16, 2014, available on OCC's Web site, *http://www.theocc.com/clearing/clearing-infomemos/infomemos1.jsp.* Clearing members also were informed that a prudential margin of safety of $1.8 billion would be retained until a new Clearing Fund sizing formula has been approved and implemented.

[14] *See* Information Memorandum #35507, dated October 31, 2014, available on OCC's Web site, *http://www.theocc.com/clearing/clearing-infomemos/infomemos1.jsp.*

[15] *See* OCC By-Laws, Article IX, Section 14(c).

[16] *See supra,* note 9. OCC also submitted this proposed rule change to the Commodity Futures Trading Commission.

OCC would use to determine the size of the Clearing Fund on a monthly basis. Similarly, SR–OCC–2014–21 was submitted in part to permit OCC to resize the Clearing Fund more frequently than monthly when the circumstances warrant an increase of the Clearing Fund. The Financial Resource Monitoring and Call Procedure, as described below, establishes the procedures that OCC would use to add Financial Resources through an intra-day margin call on one or more Clearing Members under Rule 609 and, if necessary, an intra-month increase of the Clearing Fund pursuant to Rule 1001(a).[17]

Monthly Clearing Fund Sizing Procedure

Under the Monthly Clearing Fund Sizing Procedure, OCC would continue to calculate the size of the Clearing Fund based on its daily stress test exposures under simulated default scenarios as described in the first sentence of Rule 1001(a) and resize the Clearing Fund on the first business day of each month. However, instead of resizing the Clearing Fund based on the average of the daily calculations during the preceding calendar month, as stated in the suspended second sentence of Rule 1001, OCC would resize the Clearing Fund so that it is the sum of: (i) An amount equal to the peak five-day rolling average of Clearing Fund draws observed over the preceding three calendar months of daily idiosyncratic default and minor systemic default scenario calculations based on OCC's daily Monte Carlo simulations (''Base Amount'') and (ii) a prudential margin of safety determined by OCC and currently set at $1.8 billion.[18]

OCC believes that the proposed Monthly Clearing Fund Sizing Procedure provides a sound and prudent approach to ensure that the Financial Resources are adequate to protect against the largest risk of loss presented by the default of a Clearing Member or Clearing Member Group. By virtue of using only the peak five-day rolling average and by extending the look-back period, the proposed Monthly Clearing Fund Sizing Procedure is both more responsive to sudden increases in exposure and less susceptible to recently observed decreases in exposure that would reduce the overall sizing of the Clearing Fund, thus mitigating procyclicality.[19] Furthermore, the prudential margin of safety provides an additional buffer to absorb potential future exposures not previously observed during the look-back period. The proposed Monthly Clearing Fund Sizing Procedure would be supplemented by the Financial Resource Monitoring and Call Procedure, described below, to provide further assurance that the Financial Resources are adequate to protect against such risk of loss.

Financial Resource Monitoring and Call Procedure

Under the Financial Resource Monitoring and Call Procedure, OCC would use the same daily idiosyncratic default calculation as under the Monthly Clearing Fund Sizing Procedure to monitor daily the adequacy of the Financial Resources to withstand a default by the Clearing Member or Clearing Member Group presenting the largest exposure under extreme but plausible market conditions.[20] If such a daily idiosyncratic default calculation projected a draw on the Clearing Fund (a ''Projected Draw'') that is at least 75% of the Clearing Fund maintained by OCC, OCC would be required to issue an intra-day margin call pursuant to Rule 609 against the Clearing Member or Clearing Member Group that caused such a draw (''Margin Call Event'').[21] Subject to a limitation described below, the amount of the margin call would be the difference between the Projected Draw and the Base Clearing Fund (''Exceedance Above Base Amount''). In the case of a Clearing Member Group that causes the Exceedance Above Base Amount, the Exceedance Above Base Amount would be pro-rated among the individual Clearing Members that compose the Clearing Member Group based on each individual Clearing Member's proportionate share of the ''total risk'' for such Clearing Member Group as defined in Rule 1001(b), *i.e.,* the margin requirement with respect to all accounts of the Clearing Member Group exclusive of the net asset value of the positions in such accounts aggregated across all such accounts. However, in the case of an individual Clearing Member or a Clearing Member Group, the margin call would be subject to a limitation under which it could not exceed the lower[22] of: (a) $500 million, or (b) 100% of a Clearing Member's net capital, measured cumulatively with any other funds deposited with OCC by the same Clearing Member pursuant to a Margin Call Event within the same month (the ''500/100 Limitation'').[23]

Upon satisfaction of the margin call, OCC would use its authority under Rule 608 to preclude the withdrawal of such additional margin amount until the next monthly resizing of the Clearing Fund. Based on three years of back testing data, OCC determined that it would have had Margin Call Events in 10 of the months during this time period. For each of these months, the maximum call amount would have been equal to $500 million, with one exception in which the maximum call amount for the month was $7.7 million.[24] After giving effect to the intra-day margin calls, *i.e.,* by increasing the Financial Resources by $500 million, there was only one Margin Call Event where there was an observed

[17] As noted in SR–OCC–2014–21, OCC would use its intra-month resizing authority only to increase the size of the Clearing Fund where appropriate, not to decrease the size of the Clearing Fund.

[18] On a daily basis, OCC computes its exposure under the idiosyncratic and minor systemic events. The greater of these two exposures is that day's ''peak exposure.'' To calculate the ''rolling five day average'' OCC computes the average of the peak exposure for each consecutive five-day period observed over the prior three-month period. To determine the Base Amount, OCC would use the largest five-day rolling average observed over the past three-months. This methodology was used to determine the Base Amount of the Clearing Fund for November 2014 and December 2014.

[19] Considering only the peak exposures is a more conservative methodology that gives greater weighting to sudden increases in exposure experienced by Clearing Members, thus enhancing the responsiveness of the procedure to such sudden increases. By using a longer look-back period, the methodology would respond more slowly to recently observed decreases in peak exposures.

[20] Since the minor systemic default scenario contemplates two Clearing Members' simultaneously defaulting and OCC maintains Financial Resources sufficient to cover a default by a Clearing Member or Clearing Member Group representing the greatest exposure to OCC, OCC does not use the minor systemic default scenario to determine the adequacy of the Financial Resources under the Financial Resource Monitoring and Call Procedure.

[21] Rule 609 authorizes OCC to require the deposit of additional margin in any account at any time during any business day by any Clearing Member for, *inter alia,* the protection of OCC, other Clearing Members or the general public. Clearing Members must meet a required deposit of intra-day margin in immediately available funds at a time prescribed by OCC or within one hour of OCC's issuance of debit settlement instructions against the bank account(s) of the applicable Clearing Member(s), thereby ensuring the prompt deposit of additional Financial Resources.

[22] ''Capping'' the intra-day margin call avoids placing a ''liquidity squeeze'' on the subject Clearing Member(s) based on exposures presented by a hypothetical stress test, which would have the potential for causing a default on the intra-day margin call. Back testing results determined that such calls would have been made against Clearing Members that are large, well-capitalized firms, with more than sufficient resources to satisfy the call for additional margin with the proposed limitations.

[23] The Risk Committee would be notified, and could take action to address potential Financial Resource deficiencies, in the event that a Projected Draw resulted in a Margin Call Event and as a result of the 500/100 Limitation the margin call was less than the Exceedance Above Base Amount, but the Projected Draw was not so large as to result in an increase in the Clearing Fund as discussed below.

[24] The back testing analysis performed assumed a single Clearing Member caused the exceedance.

stress test exceedance of the Financial Resources.

To address this one observed instance, the Financial Resource Monitoring and Call Procedure also would require OCC to increase the size of the Clearing Fund (''Clearing Fund Intra-month Increase Event'') if a Projected Draw exceeds 90% of the Clearing Fund, after applying any funds then on deposit with OCC from the applicable Clearing Member or Clearing Member Group pursuant to a Margin Call Event. The amount of such increase (''Clearing Fund Increase'') would be the greater of: (a) $1 billion; or (b) 125% of the difference between (i) the Projected Draw, as reduced by the deposits resulting from the Margin Call Event and (ii) the Clearing Fund. Each Clearing Member's proportionate share of the Clearing Fund Increase would equal its proportionate share of the variable portion of the Clearing Fund for the month in question as calculated pursuant to Rule 1001(b). OCC would notify the Risk Committee of the Board of Directors (the ''Risk Committee''), Clearing Members and appropriate regulatory authorities of the Clearing Fund Increase on the business day on which the Clearing Fund Intra-month Increase Event occurred. This ensures that OCC management maintains authority to address any potential Financial Resource deficiencies when compared to its Projected Draw estimates. The Risk Committee would then determine whether the Clearing Fund Increase was sufficient, and would retain authority to increase the Clearing Fund Increase or the margin call made pursuant to a Margin Call Event in its discretion. Clearing Members would be required to meet the call for additional Clearing Fund assets by 9:00 a.m. CT on the second business day following the Clearing Fund Intra-month Increase Event. OCC believes that this collection process ensures additional Clearing Fund assets are promptly deposited by Clearing Members following notice of a Clearing Fund Increase, while also providing Clearing Members with a reasonable period of time to source such assets. Based on OCC's back testing results, after giving effect to the intra-day margin call in response to a Margin Call Event plus the prudential margin of safety, the Financial Resources would have been sufficient upon implementing the one instance of a Clearing Fund Intra-month Increase Event.

OCC believes the Financial Resource Monitoring and Call Procedure strikes a prudent balance between mutualizing the burden of requiring additional Financial Resources and requiring the Clearing Member or Clearing Member Group causing the increased exposure to bear such burden. As noted above, in the event of a Margin Call Event, OCC limits the margin call to a monthly aggregate of $500 million, or 100% of a Clearing Member's net capital in order to avoid putting an undue liquidity strain on any one Clearing Member. However, where a Projected Draw exceeds 90% of OCC's Clearing Fund, OCC must act to ensure that it has sufficient Financial Resources, and determined that it should mutualize the burden of the additional Financial Resources at this threshold through a Clearing Fund Increase. OCC believes that this balance would provide OCC with sufficient Financial Resources without increasing the likelihood that its procedures would, based solely on stress testing results, cause a liquidity strain on any on Clearing Member that could result in such member's default.

The following examples illustrate the manner in which the Financial Resource Monitoring and Call Procedure would be applied. All assume that the Clearing Fund size is $7.8 billion, $6 billion of which is the Base Amount and $1.8 billion of which is the prudential margin of safety. The 75% threshold in these examples is $5.85 billion.

Example 1: Single CM.

Under OCC's stress testing the Projected Draw attributable to Clearing Member ABC, a Clearing Member with no affiliated Clearing Members and net capital of $500 million, is $6.4 billion, or 82% of the Clearing Fund. OCC would make a margin call for $400 million, which represents the Exceedance Above Base Amount. In this case the 500/100 Limitation would not be applicable because the Exceedance Above Base Amount is less than $500 million and 100% of the Clearing Member's net capital. The Clearing Member would be required to meet the $400 million call within one hour unless OCC prescribed a different time, and OCC would retain the $400 million until the next monthly Clearing Fund sizing calculation.

If, on a different day within the same month, CM ABC's Projected Draw minus the $400 million already deposited with OCC results in an Exceedance Above Base Amount, another Margin Call Event would be triggered, with the amount currently deposited with OCC applying toward the 500/100 Limitation.

Example 2: Clearing Member Group.

Under OCC's stress testing the Projected Draw attributable to Clearing Member Group DEF, comprised of two Clearing Members each with net capital of $800 million, is $6.2 billion, or 79% of OCC's Clearing Fund. OCC would initiate a margin call on Clearing Member Group DEF for $200 million. The call would be allocated to the two Clearing Members that compose the Clearing Member Group based on each Clearing Member's risk margin allocation. In this case the 500/100 Limitation would not be applicable because the Exceedance Above Base Amount is less than $500 million and 100% of net capital. The margin call would be required to be met within one hour of the call unless OCC prescribed a different time. For example, in the case where one Clearing Member accounts for 75% of the risk margin for the Clearing Member Group, that Clearing Member would be allocated $150 million of the call and the other Clearing Member, accounting for 25% of the risk margin for the Clearing Member Group, would be allocated $50 million of the call. The funds would remain deposited with OCC until the next monthly Clearing Fund sizing calculation.

Example 3: Clearing Member Group With $500 Million Cap.

Under OCC's stress testing the Projected Draw attributable to Clearing Member Group GHI, comprised of two Clearing Members each with net capital of $800 million, is $6.8 billion, or 87% of the Clearing Fund. The Exceedance Above Base Amount would be $800 million, allocated to the two Clearing Members that compose the Clearing Member Group based on each Clearing Member's risk margin allocation. Using the 75/25 risk margin allocation from Example 2, one Clearing Member would be allocated $600 million and the other Clearing Member would be allocated $200 million. The first Clearing Member would be required to deposit $500 million with OCC, which is the lowest of $500 million, that member's net capital, or that member's share of the Exceedance Above Base Amount, and the other Clearing Member would be required to deposit $200 million with OCC. After collecting the additional margin, OCC would determine whether the Projected Draw would exceed 90% of the Clearing Fund after reducing the Projected Draw by the additional margin. This calculation would divide a Projected Draw of $6.1 billion, which is the original Projected Draw of $6.8 billion reduced by the additional margin, by the Clearing Fund of $7.8 billion. The resulting percentage of 78% would be below the 90% threshold, and accordingly there would not be a Clearing Fund Intra-month Increase Event.

Example 4: Margin Call and Increase in Size of Clearing Fund

Under OCC's stress testing the Projected Draw attributable to Clearing Member JKL, a Clearing Member with no affiliated Clearing Members and net capital of $600 million, is $10.0 billion, or 128% of the Clearing Fund. OCC would make a margin call for $500 million, which represents the lowest of the Exceedance Above Base Amount, $500 million and 100% of net capital. The Clearing Member would be required to meet the $500 million call within one hour unless OCC prescribed a different time, and OCC would retain the $500 million until the next monthly Clearing Fund sizing calculation.

After collecting the additional margin, OCC would determine whether the Projected Draw would exceed 90% of the Clearing Fund after reducing the Projected Draw by the additional margin. This calculation would divide a Projected Draw of $9.5 billion, which is the original Projected Draw of $10 billion reduced by the additional margin, by the Clearing Fund of $7.8 billion. The resulting percentage of 122%, while lower, would still exceed the 90% threshold, and

accordingly OCC would declare a Clearing Fund Intra-month Increase Event. To calculate the Clearing Fund Increase, OCC would first determine the difference between the modified Projected Draw ($9.5 billion) and the Clearing Fund ($7.8 billion), which in this case would be $1.7 billion, OCC would then multiply this by 1.25, resulting in $2.125 billion. Because this amount is greater than $1 billion, the Clearing Fund Increase would be $2.125 billion and a modified Clearing Fund of OCC totaling $9.925 billion ($425 million in excess of the modified Projected Draw of $9.5 billion).

Consistency With the Payment, Clearing and Settlement Supervision Act

OCC believes that the proposed change regarding the establishment of the Monthly Clearing Fund Sizing Procedure and Financial Resource Monitoring and Call Procedure described above is consistent with Section 805(b)(1) of the Payment, Clearing and Settlement Supervision Act [25] because the proposed procedures will promote robust risk management by setting forth a process in order to ensure that OCC maintains adequate Financial Resources in the event of a default of a Clearing Member or Clearing Member Group presenting the largest exposure to OCC. The proposed change regarding the establishment of these procedures is also consistent with Section 806(e)(2) of the Payment, Clearing and Settlement Supervision Act, upon which OCC relied in originally suspending the effectiveness of the second sentence of Rule 1001(a) and increasing the size of the Clearing Fund on October 15, 2014, because it allows OCC to continue to provide its services in a safe and sound manner.[26]

Anticipated Effect on and Management of Risk

OCC believes that the proposed change will reduce OCC's overall level of risk because the proposed change makes it less likely that OCC's Clearing Fund would be insufficient should OCC need to use its Clearing Fund to manage a Clearing Member or Clearing Member Group default. The Monthly Clearing Fund Sizing Procedure would permit OCC to determine the size of its Clearing Fund by relying on a broader range of sound risk management practices than those considered in the suspended second sentence of Rule 1001(a). OCC believes that using the peak five-day rolling average of Clearing Fund draws observed over a three-month period will result in a monthly resizing of the Clearing Fund that will better reflect the risks posed by sudden increases in exposure experienced by Clearing Members. OCC also believes that the proposed prudential margin of safety will provide an additional buffer to protect against exposures not reflected in the three-month look-back period. The Financial Resource Monitoring and Call Procedure would enable OCC to minimize losses in the event of a default of a Clearing Member or Clearing Member Group presenting the largest exposure to OCC, by allowing it the flexibility to obtain additional Financial Resources either through an intra-day margin call or an intra-month increase in the size of the Clearing Fund, which would ensure that the clearance and settlement of transactions in options and other contracts occurs without interruption. Accordingly, OCC believes that the proposed changes would reduce risks to OCC and its participants. Moreover, and for the same reasons, the proposed change will facilitate OCC's ability to manage risk.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The advance notice may be implemented if the Commission does not object to the advance notice within 60 days of the later of (i) the date that the advance notice was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. OCC shall not implement the advance notice if the Commission has any objection to the advance notice.

The Commission may extend the period for review by an additional 60 days if the advance notice raises novel or complex issues, subject to the Commission providing OCC with prompt written notice of the extension. An advance notice may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies OCC in writing that it does not object to the advance notice and authorizes OCC to implement the advance notice on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its Web site of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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–OCC–2014–811 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–OCC–2014–811. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 OCC and on OCC's Web site at *http://www.theocc.com/about/publications/bylaws.jsp.*

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–OCC–2014–811 and should be submitted on or before February 17, 2015.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01245 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

[25] 12 U.S.C. 5464(b)(1).

[26] 12 U.S.C. 5464(e)(2); *see* SR–OCC–2014–807, *supra,* note 9.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74094; File No. SR–NYSEMKT–2015–05]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 123C—Equities To Specify That Exchange Systems May Close One or More Securities Electronically If a Designated Market Maker Registered in a Security or Securities Cannot Facilitate the Close of Trading as Required by Exchange Rules

January 20, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 13, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 123C—Equities to specify that Exchange systems may close one or more securities electronically if a Designated Market Maker registered in a security or securities cannot facilitate the close of trading as required by Exchange rules. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, on the Commission's Web site at *www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 123C—Equities (''Rule 123C'') to specify that Exchange systems may close one or more securities electronically if a Designated Market Maker (''DMM'') registered in a security or securities cannot facilitate the close of trading as required by Exchange rules.

Rule 123C specifies the procedures to be followed at the close of trading on the Exchange, including procedures for the execution of closing interest,[4] which interest is guaranteed to participate in the closing transaction,[5] and the determination of the closing print(s) to be reported to the Consolidated Tape for each security. Supplementary Material .10 to Rule 123C (''Rule 123C.10'') currently provides that closings may be effectuated manually or electronically. However, the current rule contemplates that closings would be facilitated by the DMM, as provided for in Rule 104(a)(3)—Equities.

The Exchange proposes to amend Rule 123C.10 to provide that, if a DMM cannot facilitate the close of trading for one or more securities for which the DMM is registered, the Exchange would close those securities electronically.[6] Unlike DMMs, who have the obligation to trade for their own account to supply liquidity as needed to facilitate the close,[7] the Exchange would not supply any liquidity when effectuating an electronic close. Without the addition of liquidity to offset an imbalance, the closing price may not be reasonably related to the last sale. To avoid closing at a price too far away from the last sale, the Exchange proposes to establish numerical guidelines to provide parameters regarding the price a security may close when the Exchange closes such security.

As proposed, the closing price of a security closed by the Exchange would not be greater than or less than the last sale price on the Exchange (the ''Reference Price'') by an amount within the Closing Numerical Guidelines set forth below:

Reference Price	*Closing Numerical Guideline (Closing Price % Difference from the Reference Price)*
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3

The proposed numerical guidelines are the same as those currently utilized in determining whether an execution qualifies as clearly erroneous under Rule 128—Equities.[8] The Exchange believes that using the same guidelines when the Exchange closes a security electronically is appropriate because it would reduce the potential for the closing price on the Exchange to be considered erroneous.

Further, the Exchange proposes to amend Rule 123C.10 to specify the eligible interest to be considered in an Exchange electronic close. Specifically, as proposed, no manually-entered Floor interest would participate in an Exchange electronic close, and if previously entered, would be ignored.[9] Further, in performing a close under the proposed rule, the Exchange would consider all interest eligible to trade in the close consistent with Rule 123C(7) [10]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Rule 123C(7) (Order of Execution at the Close). Rule 123C(7)(a) specifies the type of interest that must be executed in whole or in part in the closing transaction, and the allocation order of such interest.

[5] *See* Rule 123C(8).

[6] The proposed amendment contemplates that a DMM's inability to close securities either manually or electronically would be related to business continuity disruptions such as the physical closing of the Exchange Trading Floor or equipment and connectivity breakdowns that prevent the DMM from closing a security either manually or electronically. When a DMM is unable to close securities manually or electronically, the DMM's affirmative obligations under Rule 104 would not apply.

[7] *See* Rule 104(a)(3)—Equities and 104(f)(iii)—Equities.

[8] Rule 128—Equities defines a clearly erroneous execution as an execution with an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. Under the numerical guidelines set forth in Rule 128—Equities, an execution may be found to be clearly erroneous only if the price of the transaction to buy is greater, or less in the case of a sale, than the reference price by an amount that equals or exceeds the numerical guidelines for a particular transaction category. In determining whether an execution is clearly erroneous, the Exchange generally utilizes the consolidated last sale as the Reference Price.

[9] Manually-entered Floor interest includes interest entered by the DMM on behalf of a Floor broker and the DMM interest entered manually. The Exchange notes that, under regular trading conditions, if manually-entered Floor interest has been entered into Exchange systems, Exchange systems will not permit a DMM to close a stock electronically and the DMM would instead be required to close the security manually. The Exchange proposes to make this explicit in the text of Supplementary Material .10.

[10] Rule 123C(7)(a) sets forth the interest that must be executed or cancelled as part of the closing

and 123C(8)(a).[11] Under no circumstances, however, would the Exchange close a security if the closing price would be greater than or less than the Reference Price by an amount outside the Closing Numerical Guidelines. Accordingly, interest specified in Rule 123C(7)(a) would not participate in a closing trade if such interest would cause a closing price to be outside the Closing Numerical Guidelines.

The proposed rule would also specify that the provisions of Rule 123C(9)(a)(1) and 123C(9)(b) would be suspended if the Exchange closes a security electronically. Rule 123C(9)(a)(1) permits the Exchange, on a security-by-security basis, to temporarily suspend the hours of operation under Rule 52—Equities so that offsetting interest may be solicited from both on-Floor and off-Floor participants and entered after 4:00 p.m. ET to reduce the size of the imbalance. Rule 123C(9)(b) specifies that only the DMM may request the temporary suspensions available under Rule 123C(9)(a). As proposed, if the Exchange closes a security electronically, the assigned DMM would not have the authority to invoke Rule 123C(9)(a)(1).

Similarly, the proposed rule would specify that only the Exchange would be able to invoke Rule 123C(9)(a)(2) if the Exchange closes a security electronically. Rule 123C(9)(a)(2) permits temporary suspensions of the prohibition on the cancellation or reduction of a Market on Close (''MOC'')/Limit on Close (''LOC'') order after 3:58 p.m. where there is a legitimate error in such an order and execution of the order would cause significant price dislocation at the close. Only the assigned DMM can request relief under Rule 123C(9)(a)(2). Under the proposed rule, in an electronic close by the Exchange, Rule 123C(9)(a)(2) would be in effect but the assigned DMM would not have authority to temporarily suspend cancellation; only the Exchange would be able to invoke a temporary suspension under the rule.

Because of the technology changes associated with the proposed rule change, the Exchange proposes to announce the implementation date via Trader Update.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that permitting the Exchange to automatically close trading would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring an orderly close if the registered DMM cannot manually or electronically facilitate the close of trading as required by Exchange rules. Similarly, the proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market by providing customers and the investing public with the certainty of a close in circumstances where business continuity disruptions or other emergencies would prevent the assigned DMMs from closing a security. For the same reasons, the proposal is also designed to protect investors as well as the public interest.

The Exchange believes that the proposed amendment to Rule 123C.10 to provide that closings effectuated by the Exchange would be within a proposed numerical guideline would remove impediments to and perfect the mechanism of a free and open market because having such guidelines provides transparency regarding the range of potential prices that a security may close in such scenario. The Exchange further believes that the proposed numerical guidelines, which are based on existing guidelines for clearly erroneous executions, would remove impediments to and perfect the mechanism of a fair and orderly market because in the absence of a DMM supplying liquidity, the proposed guidelines would reduce the possibility for closing prices to be executed at potentially erroneous prices, thereby protecting investors and the public. Similarly, the Exchange believes that excluding interest eligible for the close that would cause an execution to occur outside the proposed numerical guidelines, even if such interest would otherwise be required to be included in a close effectuated by a DMM, and permitting the Exchange to cancel or reduce an MOC/LOC order after 3:58 p.m. where there is a legitimate error and execution of the order would cause significant price dislocation at the close, would remove impediments to and perfect the mechanism of a fair and orderly market because it would assure that the Exchange could effectuate the close within the proposed specified price ranges. The proposed rule therefore promotes just and equitable principles of trade because it provides transparency to entering firms of whether interest would be eligible to participate in a closing transaction effectuated by the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather enable the Exchange to close trading where circumstances would prevent a DMM from facilitating a close.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant

transaction as well as the order of execution. Rule 123C(7)(b) sets forth the interest that may be used to offset a closing imbalance and the order of execution (*i.e.,* interest that is not guaranteed to participate in the closing transaction).

[11] Rule 123C(8) governs printing of the closing transaction where there is an order imbalance (Rule 123C(8)(a)) and where there is no order imbalance (Rule 123C(8)(b)).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–05 and should be submitted on or before February 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01247 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74096; File No. SR–NASDAQ–2014–116]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving a Proposed Rule Change Relating to the NASDAQ Opening and Halt Cross

January 20, 2015.

I. Introduction

On November 21, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to its process for opening trading on Nasdaq Options Market, LLC (''NOM'') at the beginning of the trading day and following a trading halt. The proposed rule change was published for comment in the **Federal Register** on December 10, 2014.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to modify its process for opening option trading on NOM at the beginning of the trading day and following a trading halt. The Exchange proposes to accomplish this by revising definitional terms set forth in Chapter VI, Sections 1 and 8(a) of its rules, and by revising the description of the processing of the Nasdaq Opening Cross[4] set forth in Chapter VI, Section 8(b) of its rules. The Exchange also proposes to revise the language set forth in Chapter VI, Section 8(c) describing what occurs in the absence of an opening cross.[5]

Definitions—Sections 1 and 8(a)

The Exchange proposes to add an ''On the Open Order'' or ''OPG'' as a new order type and time-in-force condition defined in Section 1. As proposed, any order designated as such would be executable only during the Nasdaq Opening Cross, with any portion not so executed cancelled back to the entering participant.[6]

In addition, the Exchange proposes to make the following definitional changes to Section 8(a):

- ''Order Imbalance Indicator'' is currently defined as a message disseminated by electronic means containing information about ''Eligible Interest''[7] and the price in penny increments at which such interest would execute at the time of dissemination.[8] The ''Current Reference Price'' is one piece of information disseminated as part of the Order Imbalance Indicator and, as currently defined, is determined based on three price parameters.[9] The Exchange proposes to delete these price parameters and to simplify the definition of ''Current Reference Price'' to be: An indication of what the opening cross would be at a particular point in time.[10] Additionally, the indicative prices at which the Nasdaq Opening

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73739 (November 12, 2014), 79 FR 73382 (''Notice'').

[4] The term ''Nasdaq Opening Cross'' is defined in Chapter VI, Section 8(a)(3) of the Exchange's rules. As is discussed *infra*, this definition is among those that the Exchange has proposed to revise.

[5] Unless otherwise noted, all citations herein to Sections of the Exchange's rules are citations to Sections of Chapter VI of its rules.

[6] *See* proposed Sections 1(e)(7) and 1(g)(1).

[7] The term ''Eligible Interest'' is defined in Section 8(a)(4) and, as discussed below, is a term that the Exchange proposes to modify.

[8] *See* Section 8(a)(2). The Exchange proposes to provide itself with the ability to disseminate the Order Imbalance Indicator more frequently than the five second intervals currently required. *See* proposed Section 8(b)(3). The Exchange also proposes to specify that the dissemination interval, in addition to the start of dissemination, would be posted on its Web site. *Id.*

[9] *See* Section 8(a)(2)(A).

[10] *See* proposed Section 8(a)(2)(A). The Exchange states that the revised definition of Current Reference Price would be substantively similar to the current definition, but with the opening cross price determined pursuant to Section 8(b). *See* Notice, 79 FR at 73383.

Cross would occur, which are also currently disseminated as part of the Order Imbalance Indicator,[11] would be eliminated from such dissemination as part of the proposal.[12]

• The Exchange proposes to revise the term ''Nasdaq Opening Cross'' to mean the process for opening or resuming trading pursuant to Section 8, which includes the process for determining the price at which Eligible Interest shall be executed at the opening of trading for the day or the opening of trading for a halted option, and the process for executing such Eligible Interest.[13]

• The Exchange would revise the term ''Eligible Interest'' to mean any quotation or any order that may be entered into the system and designated with a time-in-force of IOC (immediate-or-cancel), DAY (day order), GTC (good-till-cancelled), and OPG (On the Open Order).[14] The Exchange would also revise the definition of this term to specify that orders received via FIX protocol prior to the Nasdaq Opening Cross designated with a time-in-force of IOC would be rejected and shall not be considered Eligible Interest, and orders received via OTTO and SQF protocols prior to the Nasdaq Opening Cross designated with a time-in-force of IOC would remain in force through the opening but be cancelled immediately after the opening.[15] The Exchange notes that FIX protocol users generally prefer a cancellation if an order is not executed immediately so that they can have an opportunity to access other markets, while OTTO and SQF protocol users are liquidity providers who prefer that their orders live throughout the entire opening process until it is clear that their liquidity was not utilized in the opening.[16]

• The Exchange also proposes to add new terms ''Valid Width National Best Bid or Offer'' (or ''Valid Width NBBO'') and ''Away Best Bid or Offer'' (or ''ABBO'') to Section 8(a). Specifically, in new Section 8(a)(6), the Exchange proposes to define ''Valid Width NBBO'' as the combination of all away market quotes and any combination of NOM-registered Market Maker (''Market Maker'') orders and quotes received over the OTTO or SQF protocols within a specified bid/ask differential as established and published by the Exchange. The Valid Width NBBO would be configurable by underlying, and a table with valid width differentials would be posted by Nasdaq on its Web site.[17] Away markets that are crossed (*i.e.*, an away market is internally crossed or crosses another away market) would void all Valid Width NBBO calculations.[18] If any Market Maker orders or quotes on NOM are crossed internally, then all such orders and quotes would be excluded from the Valid Width NBBO calculation.[19] In addition, in new Section 8(a)(7), the Exchange proposes to define ''ABBO'' as the displayed National Best Bid or Offer not including the Exchange's Best Bid or Offer. The Exchange states that it is proposing to add these new terms in order to ensure that all away market quotes and any combination of Market Maker orders and quotes, whether they include the Exchange's Best Bid or Offer or not, are represented in the opening cross.[20]

Processing of Nasdaq Opening Cross—Section 8(b)

The Exchange proposes various revisions to the Nasdaq Opening Cross process set forth in Section 8(b). As an initial matter, the Exchange proposes to edit the introductory paragraph of Section 8(b) by: Deleting the phrase ''there is no Imbalance'' so that the rule applies more generally; deleting the phrase ''on a class-by-class basis'' in order to clarify that the Exchange will use a regular market hours quote or trade (as determined by the Exchange) for all classes on the Exchange for the Opening Cross without distinguishing among different classes; and adding the phrase ''the Opening Process shall occur'' in order to clarify that an Opening Cross shall occur after a trading halt when trading resumes pursuant to Chapter V, Section 4.[21]

Following the introductory paragraph, the Exchange proposes to set forth the criteria that must be present for NOM to open trading at the beginning of the day or after a halt, provided the ABBO is not crossed.[22] Specifically, the rule would state that, if a trade is possible on NOM, there must be a Valid Width NBBO before trading will open;[23] and if no trade is possible on NOM, then trading would open upon the occurrence of any one of the following three criteria: (A) A Valid Width NBBO is present, (B) a certain number of other options exchanges (as determined by the Exchange) have disseminated a firm quote on OPRA, or (C) a certain period of time (as determined by the Exchange) has elapsed.[24]

In addition, the Exchange proposes to add language in proposed Section 8(b)(4)(A)–(C) to specify how the Opening Cross price would be determined when a trade is possible on NOM and a Valid Width NBBO is present. Proposed Section 8(b)(4)(A) would state that the Nasdaq Opening Cross shall occur at the price that maximizes the number of contracts of Eligible Interest in NOM to be executed at or within the ABBO and within a defined range, as established and published by the Exchange, of the Valid Width NBBO.[25] Proposed Section 8(b)(4)(B) would state that if more than one price exists under subparagraph (A) and there are no contracts that would remain unexecuted in the cross, the Nasdaq Opening Cross shall occur at the midpoint price, rounded to the penny closest to the price of the last execution in that series (and in the absence of a previous execution price, the price will round up, if necessary),[26] of (1) the National Best Bid or the last offer on NOM against which contracts would be traded, whichever is higher; and (2) the National Best Offer or the last bid on NOM against which contracts would be traded, whichever is lower.[27] Proposed Section 8(b)(4)(C) would state if more than one price exists under

[11] *See* Section 8(a)(2)(E).

[12] *See* proposed Section 8(a)(2), from which current Section 8(a)(2)(E) would be deleted.

[13] *See* proposed Section 8(a)(3).

[14] *See* proposed Section 8(a)(4).

[15] *Id.*

[16] *See* Notice, 79 FR at 73383.

[17] *See* proposed Section 8(a)(6).

[18] *Id.; see also* Notice, 79 FR at 73384.

[19] *See* proposed Section 8(a)(6).

[20] *See* Notice, 79 FR at 73384. The Exchange also notes that, with respect to the Valid Width NBBO, the orders and quotes on the Exchange would be received over the OTTO or SQF protocols. *Id.*

[21] *See* proposed Section 8(b); *see also* Notice, 79 FR at 73384. Chapter V, Section 4 states that trading in an option that has been the subject of a halt under Section 3 of Chapter V shall be resumed upon the determination by Nasdaq Regulation that the conditions which led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. According to the Exchange, trading shall resume according to the process set forth in proposed Section 8(b). *See* Notice, 79 FR at 73383.

[22] *See* proposed Section 8(b).

[23] *See* proposed Section 8(b)(1).

[24] *See* proposed Section 8(b)(2). In the case of a crossed ABBO, the Exchange notes that the conditions set forth in proposed Sections 8(b)(1) and (b)(2) would become operative when the ABBO becomes uncrossed. *See* Notice, 79 FR at 73384 n.18. Additionally, the Exchange notes that, due to its proposed addition of new Sections 8(b)(1) and (b)(2), it has proposed to renumber current Sections 8(b)(1) through 8(b)(5) to 8(b)(3) through 8(b)(7), respectively. *See* Notice, 79 FR at 73386.

[25] *See* proposed Section 8(b)(4)(A).

[26] The Exchange notes that rounding would be applied, if needed, in the following manner: If the previous closing price is less than the midpoint, then the opening price rounds down; and if the previous closing price is greater than the midpoint, or if there is no closing price, then the opening price rounds up. For example, if there is a midpoint of 1.045, the opening price would be rounded to 1.04 if the previous closing price was 1.00, and would be rounded to 1.05 if the previous closing price was 1.10. *See* Notice, 79 FR at 73385 n.22.

[27] *See* proposed Section 8(b)(4)(B).

subparagraph (A) and contracts would remain unexecuted in the cross, then the opening price would be the highest (lowest) price in the case of a buy (sell) imbalance at which the maximum number of contracts can trade which is equal to or within a defined range, as established and published by the Exchange,[28] of the Valid Width NBBO on the contra side of the imbalance that would not trade through the ABBO.[29]

Further, the Exchange proposes to add subsections to proposed Section 8(b)(4)(C) in order to specify the price at which unexecuted contracts would be posted on the book following the Opening Cross and the subsequent handling of the residual unexecuted contracts.[30] These subsections would provide as follows: (i) If unexecuted contracts remain with a limit price that is equal to the opening price, then the remaining unexecuted contracts would be posted at the opening price, displayed one minimum price variation (MPV) away if displaying at the opening price would lock or cross the ABBO, with the contra-side NOM BBO reflected as firm; (ii) if unexecuted contracts remain with a limit price that is through the opening price, and there is a contra side ABBO at the opening price, then the remaining unexecuted contracts would be posted at the opening price, displayed one minimum price variation (MPV) away from the ABBO, with the contra side NOM BBO reflected as firm, and order handling of any remaining interest would be done in accordance with the routing and time-in-force instructions of such interest and would follow the Acceptable Trade Range mechanism set forth in Section 10; (iii) if unexecuted contracts remain with a limit price that is through the opening price, and there is no contra side ABBO at the opening price, then the remaining contracts would be posted at the opening price, with the contra-side NOM BBO reflected as non-firm; and (iv) order handling of any residual unexecuted contracts would be done in accordance with Section 10(7), with the opening price representing the reference price.[31]

This proposed handling of unexecuted contracts set forth in subsections (i)–(iv) of proposed Section 8(b)(4)(C) is intended to ensure that residual unexecuted contracts from the Opening Cross, regardless of their limit prices, are posted on the book at the opening price before subsequently being routed pursuant to Section 11 or walked to the next potential execution price(s) under the Acceptable Trade Range set forth in Section 10(7) (with the opening price representing the ''reference price'' of that rule).[32] Moreover, the ''firm'' versus ''non-firm'' tagging of contra-side interest when residual Opening Cross interest is posted follows the construct currently in place on the Exchange when aggressive interest is received and triggers an Acceptable Trade Range (ATR) process.[33] Contra-side NOM BBO interest is reflected as non-firm when the Exchange has interest with a limit price (or market order) that is more aggressive than the Opening Cross price in order to ensure that aggressively priced residual interest maintains priority should other aggressively priced interest be entered before the residual interest is permitted to access the next allowable range of prices.[34]

The Exchange is also proposing to add new text to proposed Section 8(b)(5) to indicate that if the Nasdaq Opening Cross price is selected and fewer than all contracts of Eligible Interest that are available in NOM would be executed, all Eligible Interest shall be executed at the Nasdaq Opening Cross price in accordance with the execution algorithm assigned to the associated underlying option.[35]

Absence of Opening Cross—Section 8(c)

Lastly, the Exchange proposes to add a new Section 8(c) providing for the return of orders in un-opened symbols in the absence of an Opening Cross. Proposed new Section 8(c) would be substituted for current Section 8(c) and would provide that if an Opening Cross in a symbol is not initiated before the conclusion of the Opening Order Cancel Timer, a firm may elect to have orders returned by providing written notification to the Exchange.[36] These orders include all non GTC orders received over the FIX protocol.[37] The Opening Order Cancel Timer represents a period of time since the underlying market has opened, and shall be established and disseminated by Nasdaq on its Web site.[38]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[39] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[40] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act because it will enhance and clarify the opening cross process, minimize or negate unnecessary complexity, and encourage liquidity when trading opens. The Exchange notes that it proposes to set forth in Section 8(b) clear language describing under what circumstances an opening cross will occur, and how the opening cross will occur if more than one possible cross price exists. In addition, according to the Exchange, the proposed rule change will enhance the price discovery mechanism in the opening process by including not only Market Maker orders and quotes but also away market interest as represented by quotes. The Exchange believes this change will make the transition from the opening cross period to regular market trading more efficient and thus promote just and equitable principles of trade and serve to protect investors and the public interest. The Exchange also believes that the proposal will significantly improve the quality of execution of NOM's opening, which should attract new order flow. In the Exchange's view, the proposed rule changes should prove helpful to market participants, particularly those that are involved in adding liquidity during the opening cross.

The Commission believes that the proposal is reasonably designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest by adding clarity to the Exchange's rules governing NOM's opening cross process. This enhanced transparency should help to reduce the

[28] The Exchange notes that, pursuant to Section 10(7), the system will also calculate a defined range to limit the range of prices at which an order would be allowed to execute. *See* Notice, 79 FR at 73385 n.23.

[29] *See* proposed Section 8(b)(4)(C).

[30] *See* proposed Section 8(b)(4)(C)(i)–(iv).

[31] *Id.*

[32] *See* Notice, 79 FR at 73386.

[33] *Id.*

[34] *Id.*

[35] *See* proposed Section 8(b)(5).

[36] *See* proposed Section 8(c).

[37] *Id.*

[38] *Id.*

[39] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[40] 15 U.S.C. 78f(b)(5).

potential for investor confusion as to when an opening cross occurs, how the price for the opening cross is determined, and how orders involved in the opening cross are handled. The Commission also believes that the proposed opening cross process is reasonably designed to open trading in a fair and orderly manner, which is consistent with the protection of investors and the public interest. Additionally, to extent the proposal results in additional liquidity during NOM's opening at the beginning of the trading day or following a trading halt, and a more orderly transition to regular trading, it should further promote the goals of Section 6(b)(5) of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[41] that the proposed rule change (SR–NASDAQ–2014–116) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01249 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

[41] 15 U.S.C. 78s(b)(2).

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74095; File No. SR–MIAX–2015–02]

Self-Regulatory Organizations: Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Implement an Equity Rights Program

January 20, 2015.

Pursuant to the provisions of 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 January 6, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to implement an equity rights program.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to implement an equity rights program (''Program'') pursuant to which units representing the right to acquire equity in the Exchange's parent holding company, Miami International Holdings, Inc. (''MIH'') would be issued to a participating Member in exchange for payment of an initial purchase price or the prepayment of certain transaction fees and the achievement of certain liquidity volume thresholds on the Exchange over a 29-month period. The purpose of the Program is to promote the long-term interests of MIAX by providing incentives designed to encourage future MIH owners and MIAX market participants to contribute to the growth and success of MIAX, by being active liquidity providers and takers to provide enhanced levels of trading volume to MIAX's market, through an opportunity to increase their proprietary interests in MIAX's enterprise value.

Members that participate in the Program will have two options to choose from: (i) an offering of C-Units; and/or (ii) an offering of D-Units.[3]

[3] The Program which provides equity-like consideration in exchange for market making or the provision of liquidity, order flow or volume is open to market participants generally. All MIAX Members may participate subject to their satisfaction of eligibility requirements. To be designated as a participant Member, an applicant must: (i) Be a Member in good standing of MIAX; (ii) qualify as an ''accredited investor'' as such term is defined in Regulation D of the Securities Act of 1933; and (iii) have executed all required documentation for Program participation. Members may elect to participate in either or both of the options. If either the C-Unit or the D-Unit option is oversubscribed, the units in the oversubscribed option will be allocated on a pro-rata basis that may result in a fractional allocation.

C-Units Option

Members that participate in the C-Unit option of the Program will be issued for each unit (i) 52,021 shares of MIH common stock and (ii) warrants to purchase 1,752,670 shares of common stock of MIH in exchange for such participant Member's initial cash capital contribution of $312,125, and with such warrants being exercisable upon the achievement by the participating Member of certain volume thresholds on the Exchange during a 29-month measurement period commencing February 1, 2015. A total of 20 C-Units will be offered. The total equity ownership of MIH common stock held by any one participant Member will be subject to a cap of 19.9%.[4]

The warrants will vest in six (6) tranches: (i) One (1) tranche, upon initial investment; and (ii) five (5) tranches during a measurement period of months 1—29 of the Program. In addition, the participant Members may earn or lose the right to exercise warrants on a pro-rata basis based upon meeting volume commitments during the measurement periods, as detailed below.

Upon the initial investment, the participant Member would receive common shares equal to 52,021 shares of the common stock and 10% of the warrants will vest. A participant Member will be eligible to earn [sic] the remaining warrants during measurement periods provided that the participant has achieved a specified percentage of the total national average daily volume of options contracts reported to The Options Clearing Corporation (''OCC'') (''OCC ADV'') on

[4] *See* Ninth Article (b)(i)(B), Amended and Restated Certificate of Incorporation of Miami International Holdings, Inc., dated August 31, 2012 (providing that no Exchange Member, either alone or together with its Related Persons, may own, directly or indirectly, of record or beneficially, shares constituting more than twenty percent (20%) of any class of capital stock of the Corporation). Any purported transfer of shares or ownership of shares in violation of the ownership cap by a Member would be subject to the limitations of the Certificate of Incorporation, including the non-recognition of voting rights of shares in excess of the cap and a redemption right by MIH for excess shares. *See* Ninth Article (d) and (e), Amended and Restated Certificate of Incorporation of Miami International Holdings, Inc., dated August 31, 2012.

MIAX of all option classes listed on MIAX.[5]

The remaining five (5) tranches, of 90% of the warrants, will vest during the following measurement periods: (i) 3.76% of the warrants resulting from months 1–5, with a volume commitment of 0.084% of OCC ADV on MIAX per C-Unit;[6] (ii) 16.82% of the warrants resulting from months 6–11, with a volume commitment of 0.313% of OCC ADV on MIAX per C-Unit; (iii) 20.15% of the warrants resulting from months 12–17, with a volume commitment of 0.375% of OCC ADV on MIAX per C-Unit; (iv) 22.41% of the warrants resulting from months 18–23, with a volume commitment of 0.417% of OCC ADV on MIAX per C-Unit; and (v) 26.86% of the warrants resulting from months 24–29, with a volume commitment of 0.5% of OCC ADV on MIAX per C-Unit. If a participant Member exceeds 100% of the volume commitment during a tranche's measurement period, the Member is able to earn, on a pro-rata basis, warrants not earned by other participant Members. If a participant Member reaches 70–99% of the volume commitment during a tranche's measurement period, the Member will earn [sic] a reduced amount of warrants on a pro-rata basis applicable to such measurement period. If a participant Member fails to reach a minimum of 70% of the volume commitment during a tranche's measurement period, the Member will lose all right to that tranche of warrants. Notwithstanding, in the event a participant Member has not satisfied the volume commitment for any one measurement period (other than measurement period 5), the participant Member will have an opportunity to vest those warrants if such participant Member applies a portion of the Members performance from up to two measurement periods immediately following to the prior measurement period to ensure a minimum of 70% of the volume commitment in prior period and in addition has satisfied the volume commitment for the measurement periods immediately following.[7]

D-Units Option

Members that participate in the D-Unit option of the Program will be issued for each unit warrants to purchase 1,353,518 shares of common stock of MIH in exchange for the prepayment of Exchange fees in the amount of $250,000 for the 29-month period commencing February 1, 2015, and with such warrants being exercisable upon the achievement by the participating Member of certain volume thresholds on the Exchange during a 29-month measurement period commencing February 1, 2015. A total of 20 D-Units will be offered. The total equity ownership of MIH common stock held by any one participant Member will be subject to a cap of 19.9%.

The warrants will vest in five (5) tranches during the following measurement periods: (i) 4.18% of the warrants resulting from months 1–5, with a volume commitment of 0.084% of OCC ADV on MIAX per D-Unit;[8] (ii) 18.69% of the warrants resulting from months 6–11, with a volume commitment of 0.313% of OCC ADV on MIAX per D-Unit; (iii) 22.39% of the warrants resulting from months 12–17, with a volume commitment of 0.375% of OCC ADV on MIAX per D-Unit; (iv) 24.90% of the warrants resulting from months 18–23, with a volume commitment of 0.417% of OCC ADV on MIAX per D-Unit; and (v) 29.84% of the warrants resulting from months 24–29, with a volume commitment of 0.5% of OCC ADV on MIAX per D-Unit. If a participant Member exceeds 100% of the volume commitment during any one tranche's measurement period, the Member is able to earn, on a pro-rata basis, warrants not earned by other participant Members. If a participant Member reaches 70–99% of the volume commitment during any one tranche's measurement period, the Member will earn [sic] a reduced amount of warrants on a pro-rata basis applicable to such measurement period. If a participant Member fails to reach a minimum of 70% of the volume commitment during the measurement period, the Member will lose all right to that tranche of warrants. Notwithstanding, in the event a participant Member has not satisfied the volume commitment for any one measurement period (other than measurement period 5), the participant Member will have an opportunity to vest those warrants if such participant Member applies a portion of the Member's performance from up to two measurement periods immediately following to the prior measurement period to ensure a minimum of 70% of the volume commitment in prior period and in addition has satisfied the volume commitment for the measurement periods immediately following.[9]

Once a participant Member has prepaid Exchange fees for the initial 29-month period, each month the participant Member may execute contracts and accumulate transaction fees based on the prevailing MIAX Options Fee Schedule in effect at the time. Once a D-Unit participant Member has executed contract volume whereby the total accumulated transaction fees equal the prepaid amount, all subsequently executed contracts will be billed and collected at the appropriate rate as defined in the MIAX Options Fee Schedule.

Provisions Applicable to Both C-Units and D-Units

Each participant Member will have a standard piggyback registration right to include the common shares and the common shares issuable upon exercise of the warrants should MIH file a Registration Statement under the Securities Act of 1933. Each participant Member will also have the right to participate pro rata in all future offerings of MIH securities for so long as the participant Member holds at least 51% of the common shares purchased by the participating Member directly or issuable upon the exercise of warrants included in at least one D-Unit. MIH

[5] If an options class is not listed on MIAX, then the trading volume in that options class will be omitted from the calculation of % OCC ADV. Priority Customer-to-Priority Customer Crossing transactions where no fees are paid to the Exchange, special strategies, and contracts as to which a Member acts solely as clearing agent will not be counted in the number of option contracts executed on the Exchange by any Member. (Incidental Priority Customer-to-Priority Customer transactions, that are not crossing transactions, will be counted in the number of options contracts executed on the Exchange by a Member.) Special strategies for the purpose of calculating trading volume include: (i) Dividend strategy; (ii) merger strategy; (iii) short stock interest strategy; (iv) reversal and conversion strategies; (v) jelly roll strategy; and (vi) similar strategies offered by an options exchange that are subject to a fee cap. Trading in special strategies currently is not available on MIAX. Special strategies will be omitted from the calculation of % OCC ADV to the extent it is possible to identify such transactions. Calculation of % OCC ADV will be discounted by 5% of ADV for complex order functionality not yet established on the Exchange until such time that functionality is available on MIAX.

[6] The first measurement period will begin on February 1, 2015 and end June 30, 2015. Therefore, February 1, 2015 through June 30, 2015 will count as months 1–5 for purposes of the measurement period.

[7] The Exchange notes that if a participant Member has not satisfied the volume commitment for measurement period 4, the participant Member would only have one remaining measurement period immediately following to vest warrants from measurement period 4 versus up to two measurement periods for measurement periods 1–3.

[8] The first measurement period will begin on February 1, 2015 and end June 30, 2015. Therefore, February 1, 2015 through June 30, 2015 will count as months 1–5 for purposes of the measurement period.

[9] The Exchange notes that if a participant Member has not satisfied the volume commitment for measurement period 4, the participant Member would only have one remaining measurement period immediately following to vest warrants from measurement period 4 versus up to two measurement periods for measurement periods 1–3.

will have the right of first refusal to purchase any common shares or warrant shares that a participant Member decides to transfer or sell. Other participant Members will have the secondary right of first refusal to purchase any common shares or warrant shares that a participant Member decides to transfer or sell.

In addition, beginning one (1) year after the last month of the final measurement period, for a period of 90 days, the participant Member will have a right to sell the shares back to MIH at a price per share equal to a fixed percentage of fair market value [10] of the common stock. The right to sell the shares back will reoccur on an annual basis and last for a 90-day period. Years 1 and 2 after the final measurement period, the participant Member may sell back 10% of the common shares vested at a price equal to 50% of the fair market value. Year 3 after the final measurement period, the participant Member may sell back 30% of the common shares vested at a price equal to 60% of the fair market value. Year 4 after the final measurement period, the participant Member may sell back 60% of the common shares vested at a price equal to 70% of the fair market value. Year 5 after the final measurement period, the participant Member may sell back 90% of the common shares vested at a price equal to 80% of the fair market value. Year 6 after the final measurement period, the participant Member may sell back 100% of the common shares vested at a price equal to 90% of the fair market value.

When a participating Member acquires a certain number of units, the Member can appoint one director to the MIH Board and/or the MIAX Board. The Exchange notes that the number of non-industry directors on the MIAX Board, including at least one independent director, must equal or exceed the number of industry directors and Member representatives, and that additional new non-industry directors and Member representative directors will need to be added in order to maintain this status. The Exchange also notes that any directors that may be selected by a participating Member would not be counted towards the 20% Member representative requirement on the MIAX Board. In addition, the Exchange notes that a Member is only entitled to a new seat if they are not currently represented on the MIAX board.

All applicants will be subject to the same eligibility and designation criteria, and all participant Members will participate in the Program on the same terms, conditions and restrictions. To be designated as a participant Member, an applicant must: (i) Be a Member in good standing of MIAX; (ii) qualify as an ''accredited investor'' as such term is defined in Regulation D of the Securities Act of 1933; [11] and (iii) have executed all required documentation for Program participation. Participant Members must have executed the definitive documentation, satisfied the eligibility criteria required of Program participants enumerated above, and tendered the minimum cash investment or prepayment of fees by January 27, 2015, with a closing to occur on January 30, 2015.

As discussed above, the purpose of the Program is to encourage Members to direct greater trade volume to MIAX to enhance trading volume in MIAX's market. Increased volume will provide for greater liquidity and enhanced price discovery, which benefits all market participants. Other exchanges currently engage in the practice of incentivizing increased order flow in order to attract liquidity providers through equity sharing arrangements.[12] In addition, the Exchange previously adopted a substantially similar program to incentivize increased order flow in order to attract liquidity providers through an equity sharing arrangement.[13] The Program similarly intends to attract order flow, which will increase liquidity, thereby providing greater trading opportunities and tighter spreads for other market participants and causing a corresponding increase in order flow from these other market participants. The Program will similarly reward the liquidity providers that provide this additional volume with a potential proprietary interest in MIAX.

The specific volume thresholds of the Program's measurement periods were set based upon business determinations and analysis of current volume levels. The volume thresholds are intended to incentivize firms to increase the number of orders that are sent to MIAX to achieve the next threshold. Increasing the number of orders that are sent to MIAX will in turn provide tighter and more liquid markets, and therefore attract more business as well.

MIAX will initiate the measurement period on February 1, 2015. The Exchange will notify Members of the implementation of the Program and the dates of the enrollment period by Regulatory Circular, and will post a copy of this rule filing on its Web site. Any MIAX Member that is interested in participating in the Program may contact MIAX for more information and legal documentation and will be required to enter into a nondisclosure agreement regarding this additional Program information.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [14] in general, and furthers the objectives of Section 6(b)(5) of the Act [15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) of the Act [16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[17] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

In particular, the proposed rule change is equitable and not unfairly discriminatory, because all Members may elect to participate (or elect to not

[10] 'Fair market value' means the value of the MIH common stock as determined by a nationally-recognized firm of independent certified public accountants to be jointly selected by the MIH and the participant Member, if such common stock is not publicly traded.

[11] The purpose of this criterion relates to the ability of MIH to sell shares of common stock pursuant to an exemption from registration under the Securities Act of 1933. The definition of ''accredited investor'' under Rule 501(a)(1) of the Securities Act of 1933 includes any broker or dealer registered pursuant to Section 15 of the Act. MIAX Rule 200(b) requires a Member to be registered as a broker or dealer pursuant to Section 15 of the Act, therefore all MIAX Members will satisfy this criterion.

[12] *See, e.g.,* Securities Exchange Act Release Nos. 62358 (June 22, 2010), 75 FR 37861 (June 30, 2010) (SR–NSX–2010–06); 64742 (June 24, 2011), 76 FR 38436 (June 30, 2011) (SR–NYSEAmex–2011–018); 69200 (March 21, 2013), 78 FR 18657 (March 27, 2013) (SR–CBOE–2013–31).

[13] *See* Securities Exchange Act Release No. 70498 (September 25, 2013), 78 FR 60348 (October 1, 2013) (SR–MIAX–2013–43).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(4).

participate) in the Program and earn units on the same terms and conditions, assuming they satisfy the same eligibility criteria as described above. The eligibility criteria are objective; thus, all Members have the ability to satisfy them. The Board also has authorized MIAX to offer common shares in MIH to any Member that requests designation to participate in the Program and otherwise satisfies the eligibility criteria to ensure that all Members will have the opportunity to own common shares and thus participate in the Program if they so choose. In addition, participant Members will earn [sic] warrants on a pro-rata basis upon meeting fixed volume threshold amounts during the measurement periods that will apply to all participant Members.

The Exchange believes that the methodology used to calculate the volume thresholds is fair, reasonable and not unfairly discriminatory because it is based on objective criteria that are designed to omit from the calculation functionality that is not available on the Exchange and types of transactions that are subject to little or no transaction fees. Specifically, the Exchange believes excluding Priority Customer-to-Priority Customer Crossing transactions where no fees are paid to the Exchange, special strategies, and contracts as to which a Member acts solely as clearing agent from the number of option contracts executed on the Exchange by any Member is reasonable and not unfairly discriminatory because participating Members could otherwise game the volume thresholds by executing excess volumes in these types of transactions in which either no transaction fees are charged on the Exchange, or the transaction is subject to a fee cap. The Program is designed to reward participating Members for bringing their orders and quotes to the Exchange to be executed on the Exchange. The Exchange believes it is appropriate to exclude special strategies from the OCC volume calculation since those transactions are not executed on the Exchange. The Exchange believes that omitting clearing only transactions from the calculation to be fair and reasonable because the fact that a Member is clearing a trade is coincidental to the choice of where to execute that trade. And, because clearing only transactions are not executed on the MIAX, they don't fall within the intended transactions that qualify for the Program. In addition, if the Exchange were to reward the party clearing a trade, the Exchange would possibly be double counting that trade—once for the executing party and once for the clearing party. Furthermore, the Exchange believes that counting incidental Priority Customer-to-Priority Customer transactions, which are not crossing transactions, in the number of options contracts executed on the Exchange by a Member is fair and reasonable because in these situations the Priority Customer is not necessarily choosing to execute against another Priority Customer in order to avoid a transaction fee.

The Exchange believes the Program is equitable and reasonable because an increase in volume and liquidity would benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the Program. Additionally, the Exchange believes the proposed rule change is consistent with the Act because, as described above, the Program is designed to bring greater volume and liquidity to the Exchange, which will benefit all market participants by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will improve competition by providing market participants with another option when determining where to execute orders and post liquidity.

The Exchange believes that the proposed change would increase both intermarket and intramarket competition by incenting participant Members to direct their orders to the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded here. To the extent that there is an additional competitive burden on non-participant Members, the Exchange believes that this is appropriate because the Program should incent Members to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

Given the robust competition for volume among options markets, many of which offer the same products, implementing a program to attract order flow like the one being proposed in this filing is consistent with the above-mentioned goals of the Act. This is especially true for the smaller options markets, such as MIAX, which is competing for volume with much larger exchanges that dominate the options trading industry. As a newer exchange, MIAX has a nominal percentage of the average daily trading volume in options, so it is unlikely that the Program could cause any competitive harm to the options market or to market participants. Rather, the Program is a modest attempt by a small options market to attract order volume away from larger competitors by adopting an innovative pricing strategy, as evidenced by the volume thresholds of the Program that represent fractions of 1% of OCC ADV. The Exchange notes that if the Program resulted in a modest percentage increase in the average daily trading volume in options executing on MIAX, while such percentage would represent a large volume increase for MIAX, it would represent a minimal reduction in volume of its larger competitors in the industry. The Exchange believes that the Program will help further competition, because market participants will have yet another additional option in determining where to execute orders and post liquidity if they factor the benefits of MIAX equity participation into the determination.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f) of Rule 19b–4 thereunder.[19] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2015–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2015–02. 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–MIAX–2015–02 and should be submitted on or before February 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01248 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74093: File No. SR–NYSEArca-2014–126]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the AdvisorShares Pacific Asset Enhanced Floating Rate ETF Under NYSE Arca Equities Rule 8.600

January 20, 2015.

I. Introduction

On November 19, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the AdvisorShares Pacific Asset Enhanced Floating Rate ETF (''Fund'') under NYSE Arca Equities Rule 8.600. On November 26, 2014, the Exchange filed Amendment No. 1 to the proposal.[3] The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on December 8, 2014.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to list and trade Shares of the Fund under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''), which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by AdvisorShares Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[5] AdvisorShares Investments, LLC (''Adviser'') will be the investment adviser to the Fund, and Pacific Asset Management (''Sub-Adviser''), will be the sub-adviser to the Fund.[6] The Bank of New York Mellon (''Administrator'') will serve as the administrator, custodian, transfer agent and fund accounting agent for the Fund. Foreside Fund Services, LLC will be the principal underwriter and distributor of the Fund's Shares.

The Exchange has made the following representations and statements in describing the Fund and its investment strategy, including other portfolio holdings and investment restrictions.[7]

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[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 amended the proposed rule change in the following ways: (1) Specified that the floating rate high yield corporate bonds in which the Fund invests generally must have a $100 million par amount outstanding at the time of investment; (2) clarified that senior loans in which the Fund may invest includes leveraged loans; and (3) specified that the U.S. exchange-traded futures contracts, U.S. exchange-traded options on futures contracts, and U.S. exchange-traded put and call options in which the Fund invests will trade on exchanges that are members of the Intermarket Surveillance Group (''ISG'').

[4] *See* Securities Exchange Act Release No. 73717 (December 2, 2014), 79 FR 72730 (''Notice'').

[5] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). The Exchange states that on June 25, 2014, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) and under the 1940 Act relating to the Fund (File Nos. 333–157876 and 811–22110) (''Registration Statement''). In addition, according to the Exchange, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812–13677).

[6] The Exchange represents that the Adviser is not registered as a broker-dealer or affiliated with a broker-dealer. The Sub-Adviser is not registered as a broker-dealer but is affiliated with Pacific Select Disteributors, Inc., a registered broker-dealer. The Exchange states that the Sub-Adviser represetnts that Pacific Select Distributors, Inc. is a limited purpose broker-dealer with a primary business purpose of serving as distributor for mutual funds and variable annuity products, and that Pacific Select Distributors, Inc. does not engage in any borkerage or trading activity. The Exchange states that in the event (a) the Adviser or the Sub-Adviser becomes a registered broker-dealer or becomes newly affilitated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, such adviser or sub-adviser will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio, and the adviser or sub-adviser will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.

[7] The Commission notes that additional information regarding the Fund, the Trust, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, can be found in the Notice and the Registration Statement, as applicable. *See* Notice, *supra* note 4, and Registration Statement, *supra* note 5, respectively.

A. Principal Investments (under normal circumstances)[8]

According to the Exchange, the Fund's investment objective will seek to provide a high level of current income. The Fund will invest at least 80% of its net assets (plus any borrowings for investment purposes) in floating rate loans and other floating rate debt securities, derivatives or other instruments that have economic interests similar to such securities (each as described further below). The Exchange states that the Fund will seek to outperform the Credit Suisse Institutional Leveraged Loan Index. The portfolio will be diversified by industry and issuer, with no individual issuer representing more than 5% of the portfolio. The typical duration positioning will be between 0.25 years to 0.75 years as determined by the Sub-Adviser.[9]

The Fund will attempt to achieve its investment objective through investments in a focused portfolio comprised primarily of senior secured floating rate loans (''Senior Loans''), floating rate high yield corporate bonds,[10] index credit default swaps, single name credit default swaps, total return swaps,[11] interest rate swaps and cash.

According to the Exchange, Senior Loans and floating rate high yield corporate bonds in which the Fund intends to invest are expected to be rated below investment grade (*i.e.,* high yield/high risk securities, sometimes called non-investment grade securities)[12] or, may not be rated by any nationally recognized rating service, and if unrated, of comparable quality as determined by the Sub-Adviser.

According to the Exchange, the Fund generally will invest in Senior Loans (including leveraged loans) that may be in the form of participations and assignments.[13] Senior Loans in which the Fund will invest consist of domestic issuers and U.S. dollar denominated foreign issuers. The Fund will invest in Senior Loans that the Adviser or the Sub-Adviser deems to be highly liquid with readily available prices. The Fund will invest in Senior Loans rated C or higher by a credit rating agency registered as a nationally recognized statistical rating organization (''NRSRO'') with the Commission, or is unrated but considered to be of comparable quality by the Adviser or Sub-Adviser. The Fund will not invest in Senior Loans that are in default at the time of purchase. In addition, for investment purposes, the Senior Loan must have a par amount outstanding of $150 million or greater at the time the loan is originally issued.

According to the Exchange, floating rate high yield corporate bonds in which the Fund invests generally must have $100 million or more par amount outstanding at the time of investment.

To seek an increase in yield, the Fund expects to employ leverage to enhance potential return. The Fund may use leverage by (i) borrowing money, up to the maximum amount permitted under the 1940 Act, for investment purposes normally on a floating rate basis or (ii) through swaps. The Fund's investments in swaps will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies.[14]

The Fund's assets that are not invested directly in Senior Loans, floating rate high yield corporate bonds, or swaps will be held in cash or cash equivalents, including money market instruments and exchange traded products (''ETPs'')[15] that invest in these and other highly liquid instruments, in order to cover its obligations under certain swaps. The larger the value of the Fund's derivative positions, the more the Fund will be required to maintain cash or cash equivalents as collateral for such derivatives.

B. Other (Non-Principal) Investments

The Exchange states that the Fund may invest up to 20% of its net assets

[8] The Exchange states that the term ''under normal circumstances'' means, without limitation, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[9] Duration is a measure used to determine the sensitivity of a security's price to changes in interest rates. The longer a security's duration, the more sensitive it will be to changes in interest rates.

[10] According to the Exchange, Senior Loans and floating rate high yield corporate bonds are instruments with interest rates which float, adjust, or vary periodically based upon a benchmark indicator, a specified adjustment schedule, or prevailing interest rates. Senior Loans, and some floating rate high yield corporate bonds, are debt instruments that may have a right to payment that is senior to most other debts of the borrowers. Borrowers may include corporations, partnerships and other entities that operate in a variety of industries and geographic regions.

[11] According to the Exchange, index credit default swaps (CDX) can be used to gain exposure to a basket of credit risk by selling protection against default or other credit events or by buying protection in order to hedge broad market credit risk. Single name credit default swaps (CDS) can be used to allow the Fund to increase or decrease exposure to specific issuers through lower trading costs. Total return swaps (TRS) are contracts to obtain the total return of a reference asset or index in exchange for paying a financing cost. Interest rate swaps (IRS) are agreements between two parties to exchange one stream of interest payments for another. Each of these swaps is a type of derivative instrument, a financial contract whose value depends upon, or is derived from, the value of an underlying asset, reference rate or index, and may relate to bonds, loans, interest rates and related indexes. CDX, CDS, TRS and IRS are collectively referred to as ''swaps.'' The Exchange states that the Fund will typically use exchange-traded and over-the-counter (''OTC'') swaps as (i) a method to enhance returns; (ii) a substitute for taking a position in the underlying asset; and, (iii) as a part of a strategy designed to reduce exposure to other risks. To limit potential risks associated with such transactions, the Fund will segregate assets determined to be liquid by the Sub-Adviser in accordance with the 1940 Act to cover its obligations under derivative instruments. The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. The use of swaps will increase the Fund's net exposure to a particular issue, fixed income markets, or the financial markets generally.

[12] According to the Exchange, non-investment-grade securities, also referred to as ''high yield securities'' or ''junk bonds,'' are debt securities that are rated lower than the four highest rating categories by a nationally recognized statistical rating organization (for example, lower than Baa3 by Moody's Investors Service, Inc. (''Moody's'') or lower than BBB- by Standard & Poor's (''S&P'')) or are determined to be of comparable quality by the Fund's Sub-Adviser.

[13] According to the Exchange, a direct interest in a Senior Loan may be acquired directly from the agent of the lender or another lender by assignment or an indirect interest may be acquired as a participation in another lender's portion of a Senior Loan. Generally, secured Senior Loans are secured by specific assets of the borrower.

[14] The Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Sub-Adviser evaluates each approved counterparty using various methods of analysis, including earning updates, a broker-dealer's reputation, the Sub-Adviser's past experience with the broker-dealer, a counterparty's liquidity and its share of market participation.

[15] According to the Exchange, ETPs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Trust Units (as described in NYSE Arca Equities Rule 8.500); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The Exchange states that the ETPs all will be listed and traded in the U.S. on registered exchanges and that the Fund will invest in the securities of ETFs registered under the 1940 Act consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof and the Fund will only make such ETF investments in conformity with the requirements of Regulation M of the Internal Revenue Code of 1986, as amended. While the Fund may invest in inverse ETPs, the Fund will not invest in leveraged or inverse leveraged ETPs (*e.g.,* 2X or 3X).

in the securities and financial instruments described below.[16]

The Fund may invest in debt securities (other than those described in the Principal Investments section), including investment-grade, non-investment-grade, and unrated securities. Debt securities in which the Fund may invest consist of the following: (i) Bank obligations of domestic and foreign banks, which may include certificates of deposit, commercial paper,[17] bankers' acceptances, and fixed time deposits;[18] (ii) corporate debt;[19] (ii) asset-backed securities (''ABS'');[20] mortgage-backed securities (''MBS'') and mortgage-related securities;[21] inflation-indexed bonds;[22] floating rate loans (other than those described in the Principal Investments section) consisting of (a) unsecured senior loans and (b) secured and unsecured subordinated loans, second lien loans, and subordinated bridge loans (''Junior Loans'');[23] and U.S. government securities.[24]

The Fund may invest in issuers located outside the United States directly, or in financial instruments, ETFs, or other ETPs[25] that are indirectly linked to the performance of foreign issuers. Such financial instruments consist of American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), European Depositary Receipts (''EDRs''), International Depository Receipts (''IDRs''), ''ordinary shares,'' and ''New York shares'' issued and traded in the U.S.[26]

The Fund may trade U.S. exchange-traded futures contracts, U.S. exchange-traded or OTC options on futures contracts, and U.S. exchange-traded or OTC put and call options on securities and securities indices, as the Sub-Adviser determines is appropriate in seeking the Fund's investment objective, and except as restricted by the Fund's investment limitations. U.S. exchange-traded futures contracts, U.S. exchange-traded options on futures contracts, and U.S. exchange-traded put and call options in which the Fund invests will trade on exchanges that are members of ISG.

The Fund may invest in structured notes.[27]

The Fund may invest in exchange-traded equity securities that represent ownership interests in a company or partnership and that consist of common stocks, preferred stocks, warrants to acquire common stock, securities convertible into common stock, investments in master limited partnerships, and rights.

The Fund may invest in the securities of other investment companies (including index-based and actively managed) to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof. Consistent with the restrictions discussed above, the Fund may invest in several different types of investment companies from

[16] Unless otherwise indicated, the Fund may invest up to 20% of its net assets in the types of investments referenced below in this section, subject to the limitations imposed by the Fund's investment objective, policies, and restrictions described in the Fund's Registration Statement, as well as the federal securities laws.

[17] According to the Exchange, commercial paper is a short-term obligation with a maturity ranging from one to 270 days issued by banks, corporations and other borrowers. The Fund may invest in commercial paper rated A–1 or A–2 by S&P or Prime-1 or Prime-2 by Moody's.

[18] According to the Exchange, the Fund will not invest in fixed time deposits which (i) are not subject to prepayment; or (ii) provide for withdrawal penalties upon prepayment, if in the aggregate, more than 15% of its net assets would be invested in such deposits, repurchase agreements with remaining maturities of more than seven days, or other illiquid assets.

[19] According to the Exchange, corporate debt are debt securities issued by businesses to finance their operations and consist of notes, corporate bonds, high yield bonds, debentures and commercial paper. The Fund may invest in corporate debt issued by domestic or foreign companies of all kinds, including those with small-, mid-, and large-capitalizations. The Fund may also invest in corporate debt securities which are representative of one or more high-yield bond or credit derivative indices, which may change from time to time.

[20] According to the Exchange, ABS are instruments created from many types of assets, including auto loans, credit card receivables, home equity loans, and student loans. ABS are issued through special purpose vehicles that are bankruptcy remote from the issuer of the collateral. The Fund may invest in ABS provided such securities are consistent with the Fund's investment objectives and policies. The Fund will not invest more than 5% of its net assets in non-agency ABS.

[21] According to the Exchange, MBS and mortgage-related securities are interests in pools of residential or commercial mortgage loans, including mortgage loans made by savings and loan institutions, mortgage bankers, commercial banks, and others. Pools of mortgage loans are assembled as securities for sale to investors by various governmental, government-related and private organizations. The Fund also may invest in debt instruments which are secured with collateral consisting of mortgage-related securities. The Fund will not invest, however, more than 5% of its net assets in MBS and mortgage-related securities.

[22] According to the Exchange, inflation-indexed bonds are debt securities whose principal value is periodically adjusted according to the rate of inflation.

[23] According to the Exchange, unsecured senior loans and Junior Loans are subject to the same general risks of Senior Loans; however, due to their lower place in the borrower's capital structure and possible unsecured status, unsecured senior loans and Junior Loans involve a higher degree of overall risk than Senior Loans of the same borrower. The Fund will invest in Junior Loans the Adviser or Sub-Adviser deems to be highly liquid with readily available prices. The Fund will invest in Junior Loans rated C or higher by a NRSRO, or unrated but considered to be of comparable quality by the Adviser or Sub-Adviser. The Fund will not invest in Junior Loans that are in default at time of purchase. In addition, for investment purposes, each Junior Loan must have a par amount outstanding of $150 million or greater at the time the loan is originally issued.

[24] According to the Exchange, U.S. government securities are securities issued or guaranteed by the U.S. government or its agencies or instrumentalities, and consist of U.S. Treasury bills; U.S. Treasury notes; U.S. Treasury bonds; obligations issued by U.S. government agencies and instrumentalities which are supported by (a) the full faith and credit of the U.S. Treasury, (b) the discretionary authority of the U.S. government, or (c) the right of the issuer to borrow from the U.S. Treasury; separately traded principal and interest components of securities guaranteed or issued by the U.S. government or its agencies, instrumentalities, or sponsored enterprises if such components trade independently under the Separate Trading of Registered Interest and Principal of Securities program (''STRIPS'') or any similar program sponsored by the U.S. government; or U.S. Treasury zero-coupon bonds (which include U.S. Treasury bonds which have been stripped of their unmatured interest coupons, the coupons themselves, and receipts or certificates representing interests in such stripped debt obligations and coupons).

[25] *See supra* note 15.

[26] According to the Exchange, ADRs are U.S. dollar denominated receipts typically issued by U.S. banks and trust companies that evidence ownership of underlying securities issued by a foreign issuer. The underlying securities may not necessarily be denominated in the same currency as the securities into which they may be converted. The underlying securities are held in trust by a custodian bank or similar financial institution in the issuer's home country. The depositary bank may not have physical custody of the underlying securities at all times and may charge fees for various services, including forwarding dividends and interest and corporate actions. Generally, ADRs in registered form are designed for use in domestic securities markets and are traded on exchanges or OTC in the U.S. GDRs, EDRs, and IDRs are similar to ADRs in that they are certificates evidencing ownership of shares of a foreign issuer; however, GDRs, EDRs, and IDRs may be issued in bearer form and denominated in other currencies, and are generally designed for use in specific or multiple securities markets outside the U.S. EDRs, for example, are designed for use in European securities markets while GDRs are designed for use throughout the world. Ordinary shares are shares of foreign issuers that are traded abroad and on a U.S. exchange. New York shares are shares that a foreign issuer has allocated for trading in the U.S. ADRs, ordinary shares, and New York shares all may be purchased with and sold for U.S. dollars. ADRs may be sponsored or unsponsored, but the Exchange states that unsponsored ADRs will not exceed 10% of the Fund's net assets. In addition, the Exchange states that not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

[27] According to the Exchange, structured notes are debt obligations that also contain an embedded derivative component with characteristics that adjust the obligation's risk/return profile. Generally, the performance of a structured note will track that of the underlying debt obligation and the derivative embedded within it. The Fund has the right to receive periodic interest payments from the issuer of the structured notes at an agreed-upon interest rate and a return of the principal at the maturity date.

time to time, including mutual funds, ETFs, exchange- and OTC-traded closed-end funds, and exchange- and OTC-traded business development companies (''BDCs'').[28]

The Fund may invest in the securities of exchange and OTC-traded pooled investment vehicles that are not investment companies and, thus, not required to comply with the provisions of the 1940 Act. These pooled vehicles typically hold commodities, such as gold or oil, currency, or other property that is itself not a security.[29]

The Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans.[30]

The Fund may engage in short sales transactions in which the Fund sells a security it does not own.

The Fund may utilize swaps (other than those referenced in the Principal Investments section) in an attempt to gain exposure to the securities in a market without actually purchasing those securities, or to hedge a position. Such swaps consist of interest rate caps (under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates exceed a specified rate or ''cap''), interest rate floors (under which, in return for a premium, one party agrees to make payments to the other to the extent that interest rates fall below a specified level or ''floor''), and interest rate collars (under which a party sells a cap and purchases a floor or vice versa in an attempt to protect itself against interest rate movements exceeding given minimum or maximum levels).

To respond to adverse market, economic, political, or other conditions, the Fund may invest up to 100% of its total assets, without limitation, in debt securities and money market instruments, either directly or through ETPs.[31] The Fund may be invested in this manner for extended periods, depending on the Sub-Adviser's assessment of market conditions. For purposes of this paragraph, debt securities and money market instruments include shares of mutual funds, commercial paper, certificates of deposit, bankers' acceptances, U.S. government securities, repurchase agreements, and bonds that are rated BBB or higher.

C. Fund Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser,[32] in accordance with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may not, with respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U.S. government, its agencies or instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of such issuer; or acquire more than 10% of the outstanding voting securities of any one issuer. For purposes of this policy, the issuer of the underlying security will be deemed to be the issuer of any respective depositary receipt.

The Fund may not invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. This limitation does not apply to investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or shares of investment companies. The Fund will not invest 25% or more of its total assets in any investment company that so concentrates.

The Fund's investments will be consistent with its investment objective and will not be used to provide multiple returns of a benchmark or to produce leveraged returns. The Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).[33]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[34] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[35] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[36] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative

[28] According to the Exchange, a BDC is a less common type of closed-end investment company that more closely resembles an operating company than a typical investment company.

[29] According to the Exchange, exchange-traded pooled investment vehicles include Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

[30] According to the Exchange, it is the current policy of the Fund not to invest in repurchase agreements that do not mature within seven days if any such investment, together with any other illiquid assets held by the Fund, amounts to more than 15% of the Fund's net assets. The investments of the Fund in repurchase agreements, at times, may be substantial when, in the view of the Sub-Adviser, liquidity or other considerations so warrant.

[31] *See supra* note 15.

[32] In reaching liquidity decisions, the Adviser or Sub-Adviser may consider the following factors: the frequency of trades and quotes for the security; The number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[33] The Exchange represents that the Fund's broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

[34] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[35] 15 U.S.C. 78f(b)(5).

[36] 15 U.S.C. 78k–1(a)(1)(C)(iii).

Value of the Fund,[37] as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[38] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund's Web site will disclose the Disclosed Portfolio (as defined in NYSE Arca Equities Rule 8.600(c)(2)) that will form the basis for the Fund's calculation of NAV at the end of the business day.[39] In addition, a basket composition file, which includes the security names and share quantities (as applicable) required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the National Securities Clearing Corporation. The Administrator will calculate the NAV per Share of the Fund as of the close of the regular trading session on the NYSE (ordinarily 4:00 p.m., Eastern Time) on each day such exchange is open.[40] Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the underlying U.S. Exchange-traded Equity will be available via the CTA high-speed line and from the national securities exchange on which they are listed. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority. Price information regarding exchange-traded options, exchange-traded swaps, exchange-traded closed end funds, futures, and Exchange-traded Equity held by the Fund will be available from the U.S. and non-U.S. exchanges trading such assets. Quotation information from brokers and dealers or pricing services will be available for unsponsored ADRs, non-exchange-traded derivatives (including swaps, options traded OTC, options on futures traded OTC, and certain structured notes), and OTC-traded Securities. Price information for investment company securities (other than ETFs, exchange-traded closed end funds, and exchange-traded BDCs) is available from the applicable investment company's Web site and from market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription agreements. Foreign exchange prices are available from major market data vendors. The Fund's Web site will include a form of the prospectus for the Fund that may be downloaded and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in the Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading in the Shares of the Fund also may be halted because of other market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable,[41] and

[37] According to the Exchange, the Portfolio Indicative Value calculation will be an estimate of the value of the Fund's Net Asset Value (''NAV'') per Share using market data converted into U.S. dollars at the current currency rates. The Portfolio Indicative Value will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the Portfolio Indicative Value and the market price of the Shares may occur, and the Portfolio Indicative Value should not be viewed as a ''real-time'' update of the NAV per Share of the Fund, which will be calculated only once per day.

[38] The Exchange states that several major market data vendors display or make widely available Portfolio Indicative Values taken from the CTA or other data feeds.

[39] The Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol; CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index, or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts, or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

[40] The NAV per Share of the Fund will be computed by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares of the Fund outstanding, rounded to the nearest cent. Expenses and fees are accrued daily and taken into account for purposes of determining NAV per Share. According to the Exchange, in computing the Fund's NAV, the Fund's securities holdings will be valued based on their last readily available market price. Price information on listed securities, including ETPs in which the Fund invests, will be taken from the exchange where the security is primarily traded. Other portfolio securities and assets for which market quotations are not readily available or determined to not represent the current fair value will be valued based on fair value as determined in good faith by the Fund's Sub-Adviser in accordance with procedures adopted by the Trust's Board of Directors (''Board''). U.S. exchange-traded options, exchange-traded swaps, and exchange-traded closed end funds will be valued at the closing settlement price determined by the applicable exchange. Exchange-traded equity securities, including common stocks, preferred stocks, warrants, convertible securities, rights, pooled investment vehicles, exchange-traded BDC's, master limited partnerships, ETPs, sponsored ADRs, GDRs, EDRs, IDRs, ordinary shares, and New York shares (collectively, ''Exchange-traded Equity'') will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which the security is primarily traded at the time of valuation or, if no sale has occurred, at the last quoted bid price on the primary market or exchange on which they are traded. If market prices are unavailable or the Fund believes that they are unreliable, or when the value of a security has been materially affected by events occurring after the relevant market closes, the Fund will price those securities at fair value as determined in good faith using methods approved by the Trust's Board. Unsponsored ADRs, which are traded OTC, will be valued on the basis of the market closing price on the exchange where the stock of the foreign issuer that underlies the ADR is listed. Investment company securities (other than ETFs, exchange-traded closed-end funds and exchange-traded BDCs), including mutual funds, OTC-traded closed-end funds, and OTC-traded BDCs, will be valued at net asset value. Non-exchange-traded derivatives, including swaps, options traded OTC, options on futures traded OTC, and certain structured notes, will normally be valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the earlier closing of the principal markets for those assets. Futures contracts will be valued at the settlement or closing price determined by the applicable exchange. Debt securities, floating rate loans, other floating rate debt securities, Senior Loans, Junior Loans, U.S. Treasury securities, OTC-traded pooled investment vehicles, other obligations issued or guaranteed by U.S. government agencies and instrumentalities, STRIPs, zero-coupon bonds, bank obligations, corporate debt securities, ABS, MBS, mortgage-related securities, commercial paper, repurchase agreements, inflation-indexed bonds, certificates of deposits, bankers' acceptances, and certain structured notes (collectively, ''OTC-traded Securities'') generally trade in the OTC market rather than on a securities exchange, and the Fund will generally value OTC-traded Securities by relying on independent pricing services. The Fund's debt securities will generally be valued at bid prices. In certain cases, some of the Fund's debt securities may be valued at the mean between the last available bid and ask prices. Foreign exchange rates will be priced using 4:00 p.m. (Eastern Time) mean prices from major market data vendors.

[41] These reasons may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. With respect to trading halts,

Continued

trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth additional circumstances under which trading in Shares of the Fund may be halted. The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Reporting Authority must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the Fund's portfolio. In addition, the Exchange represents that the Adviser is not registered as a broker-dealer or affiliated with a broker-dealer, and that the Sub-Adviser is not registered as a broker-dealer but is affiliated with Pacific Select Distributors, Inc., a limited purpose registered broker-dealer that does not engage in any brokerage or trading activity.[42]

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange further represents that these procedures are adequate to properly monitor Exchange-trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[43]

The Exchange represents that the Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and underlying exchange-traded equity securities, futures contracts, and exchange-traded options contracts with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and underlying exchange-traded equity securities, futures contracts, and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and underlying exchange-traded equity securities, futures contracts, and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund that is reported to FINRA's Trade Reporting and Compliance Engine.

(4) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation unit aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (d) how information regarding the Portfolio Indicative Value and the Disclosed Portfolio is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[44] as provided by NYSE Arca Equities Rule 5.3.

(6) The Fund's investments will be consistent with its investment objective and will not be used to provide multiple returns of a benchmark or to produce leveraged returns. The Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

(7) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser, in accordance with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.

(8) Floating rate high yield corporate bonds in which the Fund invests generally must have $100 million or more par amount outstanding at the time of investment.

(9) The Fund will invest in Senior Loans that the Adviser or the Sub-Adviser deems to be highly liquid with readily available prices. The Fund will not invest in Senior Loans that are in default at the time of purchase. In addition, for investment purposes, the Senior Loan must have a par amount outstanding of $150 million or greater at the time the loan is originally issued.

(10) The Fund's investments in swaps will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. The Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced.

the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.

[42] *See supra* note 6. The Exchange states that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[43] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[44] 17 CFR 240.10A–3.

The Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. The Fund will segregate assets determined to be liquid by the Sub-Adviser in accordance with the 1940 Act to cover its obligations under derivative instruments. The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk.

(11) The Fund's portfolio will be diversified by industry and issuer, with no individual issuer representing more than 5% of the portfolio.

(12) Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded options contracts shall consist of options contracts whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. U.S. exchange-traded futures contracts, U.S. exchange-traded options on futures contracts, and U.S. exchange-traded put and call options in which the Fund invests will trade on exchanges that are members of ISG.

(13) Unsponsored ADRs will not exceed 10% of the Fund's net assets.

(14) The Fund may invest up to 5% of its net assets in non-agency ABS.

(15) The Fund may invest up to 5% of its net assets in MBS and mortgage-related securities.

(16) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act [45] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[46] that the proposed rule change (SR–NYSEArca–2014–126), as modified by Amendment No. 1, *be, and it* hereby *is,* approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01246 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

[45] 15 U.S.C. 78f(b)(5).

[46] 15 U.S.C. 78s(b)(2).

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74099; File No. SR–Phlx–2015–07]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to SPY Pilot Program

January 20, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 13, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 the Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot program that eliminates position limits for options on the SPDR® S&P 500® exchange-traded fund (''SPY ETF'' or ''SPY''),[3] which list and trade under the symbol SPY (''SPY Pilot Program'').

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''SPDR®,'' ''Standard & Poor's®,'' ''S&P®,'' ''S&P 500®,'' and ''Standard & Poor's 500'' are registered trademarks of Standard & Poor's Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 1001, entitled ''Position Limits,'' to extend the current pilot, which expires on February 4, 2015, to July 12, 2015 (''Extended Pilot''). This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits; (2) the liquidity of the option and the underlying security; (3) the market capitalization of the underlying security and the related index; (4) the reporting of large positions and requirements surrounding margin; and (5) the potential for market on close volatility.

The Exchange submitted a report to the Commission on January 2, 2015, which report reflected, during the time period from December 1, 2013 through November 30, 2014, the trading of standardized SPY options with no position limits consistent with option exchange provisions.[4] The report was prepared in the manner specified in Phlx's filing extending the SPY Pilot Program.[5] The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension.

As with the original proposal, related to the SPY Pilot Program, the Exchange represents that a Pilot Report will be submitted at least thirty (30) days before

[4] The report is attached as Exhibit 3.

[5] *See* Securities Exchange Act Release No. 70879 (November 14, 2013), 78 FR 69731 (November 20, 2013) (SR–Phlx–2013–108).

the end of the Extended Pilot and would analyze that period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the Extended Pilot. The Pilot Report will compare the impact of the SPY Pilot Program, if any, on the volumes of SPY options and the volatility in the price of the underlying SPY shares, particularly at expiration during the Extended Pilot. In preparing the report the Exchange will utilize various data elements such as volume and open interest. In addition the Exchange will make available to Commission staff data elements relating to the effectiveness of the SPY Pilot Program.

Conditional on the findings in the Pilot Report, the Exchange will file with the Commission a proposal to extend the pilot program, adopt the pilot program on a permanent basis or terminate the pilot. If the SPY Pilot Program is not extended or adopted on a permanent basis by the expiration of the Extended Pilot, the position limits for SPY would revert to limits in effect at the commencement of the SPY Pilot Program.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(5) of the Act [7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would be beneficial to market participants, including market makers, institutional investors and retail investors, by permitting them to establish greater positions when pursuing their investment goals and needs. The Exchange also believes that economically equivalent products should be treated in an equivalent manner so as to avoid regulatory arbitrage, especially with respect to position limits. Treating SPY and SPX options differently by virtue of imposing different position limits is inconsistent with the notion of promoting just and equitable principles of trade and removing impediments to perfect the mechanisms of a free and open market. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated below, the Exchange notes that the rule change is being proposed as a competitive response to similar filings by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish uniform position limits for a multiply listed options class.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will permit the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2015–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2015–07. This file number should be included on the

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2015–07, and should be submitted on or before February 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01252 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74097; File No. SR–BX–2015–004]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding BX LMM and Penny Pilot Options

January 20, 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 January 9, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, entitled ''Options Pricing'' and Section 2, entitled ''Options Market—Fees and Rebates''. Specifically, the Exchange proposes to: (1) Add the definition of Lead Market Maker (''LMM'') and amend the definition of Common Ownership in Chapter XV; (2) adopt three Monthly Volume Tiers in Section 2 that apply to LMMs in their specifically allocated options classes when adding liquidity in Penny Pilot options; (3) indicate in Section 2 that BAC, IWM, QQQ, SPY, and VXX are priced like all other Penny Pilot options; and (4) update the numbering of notes in Section 2.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Chapter XV, entitled ''Options Pricing'' and Section 2, entitled ''Options Market—Fees and Rebates''. Specifically, the Exchange proposes to: (1) Add the definition of Lead Market Maker and amend the definition of Common Ownership in Chapter XV; (2) adopt three Monthly Volume Tiers in Section 2 that apply to LMMs (also known as ''BX LMMs'') in their specifically allocated options classes when adding liquidity in Penny Pilot options; (3) indicate in Section 2 that BAC, IWM, QQQ, SPY, and VXX[3] are priced like all other Penny Pilot options; and (4) update the numbering of notes in Section 2.

Lead Market Maker

BX introduced LMMs this year on the Exchange,[4] such that with respect to each class of options in an LMM's appointment, an LMM is expected to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class.[5] Approved BX Options Market Makers[6] may become an LMM in one or more listed options. Initial application(s) to become an LMM shall be in a form and/or format prescribed by the Exchange and shall include the following: (1) Background information on the LMM including experience in trading options; (2) the LMM's clearing arrangements; (3) adequacy of capital; and (4) adherence to Exchange rules and ability to meet obligations of an LMM.[7] Once an applicant is approved by the Exchange as an LMM, any material change in capital shall be reported in writing to the Exchange within two business days after the change. The Exchange will not place any limit on the number of entities that may become LMMs, however the Exchange notes that there will only be one LMM per class.

The Exchange is not, in this proposal, making any changes, substantive or otherwise, to how LMMs function. Rather, in that the proposed new volume tiers in Chapter XV, Section 2 refer to LMMs, the Exchange is adding to Chapter XV a definition of LMM that refers back to Chapter VII, Section 13. Specifically, the Exchange proposes to state in Chapter XV: ''The term ''Lead

[3] BAC is the symbol for Bank of America Corporation, IWM is the symbol for iShares Russell 200 ETF, QQQ is the symbol for PowerShares QQQ Trust Series 1 ETF, SPY is the symbol for SPDR S&P 500 ETF, and VXX is the symbol for iPath S&P 500 VIX Short Term Futures ETN.

[4] *See* Securities Exchange Act Release No. 72883 (August 20, 2014), 79 FR 50971 (August 26, 2014) (SR–BX–2014–035) (order approving introduction of LMMs on BX) (the ''LMM approval order'').

[5] LMM obligations and prohibitions are further described in Chapter VII, Section 14.

[6] *See* BX Chapter VII, Section 2.

[7] *See* BX Chapter VII, Section 13(A)(b). Subsequent applications are discussed in Section 13(A)(c).

Market Maker'' or (''LMM'') applies to a registered BX Options Market Maker that is approved pursuant to Chapter VII, Section 13 to be the LMM in an options class (options classes).'' This makes the proposed volume tiers language easier to understand and read within Chapter XV, Section 2.

Common Ownership

The concept of common ownership is present in Exchange rules. Currently, Chapter XV states that the term ''Common Ownership'' shall mean Participants under 75% common ownership or control. The Exchange is, as discussed below, proposing Monthly Volume Tiers for execution of options on BX that meet certain volume thresholds. As such, the Exchange simply proposes to incorporate volume tiers into the definition of ''Common Ownership'' in Chapter XV by adding the language: ''Common Ownership shall apply to all pricing in Chapter XV, Section 2 for which a volume threshold or volume percentage is required to obtain the pricing.'' This conforms Chapter XV internally and reduces the possibility of confusion. It also conforms the definition of Common Ownership in BX Chapter XV with a similar definition in the rules of the NASDAQ Options Market (''NOM'').[8]

Fees and Rebates for Penny Pilot Options

The Penny Pilot, an industry-wide program, has been in place on the Exchange for well over a year and has allowed options to quote and trade in penny increments.[9] The Exchange's options pricing for execution on the BX Options Market currently has a separate section for fees and rebates [10] for Penny Pilot options on BAC, IWM, QQQ, SPY, and VXX (known as ''special rates'')—as opposed to All Other Penny Pilot Options.[11] The Exchange proposes to delete the special rates for BAC, IWM, QQQ, SPY, and VXX. By doing so, BAC, IWM, QQQ, SPY, and VXX would have the same fees and rebates as all other Penny Pilot options. Thus, as a result of this filing deleting the special rates, the rebate to add liquidity for a BX Options Market Maker [12] when contra to a Non-Customer, BX Options Market Maker, or BX LMM would increase from $0.00 to $0.10 (per executed contract); the rebate to remove liquidity for Customer [13] would increase from $0.00 to $0.35; the fee to add liquidity for Customer when contra to a Customer would increase from $0.10 to $0.40; and the fee to add liquidity for BX Options Market Maker when contra to a Customer would increase from $0.00 to as much as $0.40—according to three Monthly Volume Tiers in new note 4 applicable to LMMs as discussed below. As such, all Penny Pilot Options, including BAC, IWM, QQQ, SPY, and VXX, would have the same fees and rebates.

The fee schedule after the filing will reflect Penny Pilot Options fees and rebates for Customer, BX Options Market Maker, and Non Customer [14] as follows:

FEES AND REBATES

[Per executed contract]

	Customer	BX Options Market Maker	Non-Customer [1]
Penny Pilot Options:			
Rebate to Add Liquidity	$0.00 [2]	$0.10 [2]	N/A.
Fee to Add Liquidity	$0.40 [3]	$0.40[sic] [4]	$0.45.
Rebate to Remove Liquidity	$0.35	N/A	N/A.
Fee to Remove Liquidity	N/A	$0.46	$0.46.

There are three notes applicable to this Fees and Rebates section, which do not change.[15] The Exchange is adding new note 4 in respect of volume tiers applicable to LMMs.

New note 4 adds Monthly Volume Tiers A, B, and C applicable to BX LMMs in their specifically allocated options classes. These tiers apply to the Fee to add Liquidity for BX LMMs for Penny Pilot Options.[16] The fee is indicated at $0.40, $0.38, and $0.37 depending on Monthly Volume Tier thresholds. Tier A indicates a fee of $0.40 for Total Volume up to 0.20% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day. Tier B indicates a fee of $0.38 for Total Volume above 0.20% to 0.30% of total industry customer equity and ETF option ADV contracts per day in a month. And Tier C indicates a fee of $0.37 for a Total Volume 0.31% or more of total industry customer equity and ETF option ADV contracts per day in a month. In addition, because new tiers A, B, and C refer to Total Volume, this term is defined as follows: ''Total Volume'' shall be defined as Customer, BX Options Market Marker, LMM, and Non-Customer volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on BX Options. For purposes of determining Monthly Volume Tiers,

[8] *See* NOM Chapter XV. NOM is a facility of The NASDAQ Stock Market LLC (''NASDAQ''). NASDAQ, NASDAQ OMX PHLX LLC (''Phlx'') and the Exchange are self-regulatory organizations (''SROs'') that are wholly owned subsidiaries of The NASDAQ OMX Group, Inc. (''NASDAQ'').

[9] The Penny Pilot was established in June 2012 and last extended in December 2014. *See* Securities Exchange Act Release Nos. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR–BX–2012–030) (order approving BX option rules and establishing Penny Pilot); and 73689 (November 25, 2014), 79 FR 71488 (December 2, 2014) (SR–BX–2014–057) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2015).

[10] The Rebate to Add Liquidity is paid to a BX Options Market Maker only when the BX Options Market Maker is contra to a Non-Customer or BX Options Market Maker. A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker.

[11] *See* Securities Exchange Act Release No. 70539 (September 27, 2013), 78 FR 61418 (October 3, 2013) (SR–BX–2013–052) (notice of filing and immediate effectiveness regarding special rates for BAC, IWM, QQQ, SPY, and VXX).

[12] A BX Options Market Maker must be registered as such pursuant to Chapter VII, Section 2 of the BX Options Rules, and must also remain in good standing pursuant to Chapter VII, Section 4.

[13] The term ''Customer'' means a Public Customer or a broker-dealer, and the term ''Public Customer'' means a person that is not a broker or dealer in securities. *See* Chapter I, Section 1(a)(22) and 1(a)(50).

[14] A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker.

[15] These unchanged notes are: ''[1] A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker. [2]The Rebate to Add Liquidity will be paid to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Non-Customer or BX Options Market Maker. [3]The Fee to Add Liquidity will be assessed to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Customer.''

[16] For the Fee to add Liquidity for Customer for Penny Pilot Options, note 3 continues to apply. Note 3 states: ''The Fee to Add Liquidity will be assessed to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Customer.''

any day that the market is not open for the entire trading day will be excluded from such calculation.'' [17]

Finally, in the rebates and fees section for Non-Penny Pilot Options, note 4 is renumbered to note 5.[18] There are no other changes to this section.

The Exchange believes that having the same fees and rebates across the board for all Penny Pilot Options will incentivize BX Options Market Makers, Customers, and non-Customers to interact with a greater number of Penny Pilot Options orders on the Exchange. The proposed differentiation between BX LMMs and other market participants in terms of tiers recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. LMMs have heightened quoting obligations. Chapter VII, Section 14(a) indicates that transactions of an LMM should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no LMM should enter into transactions or make bids or offers that are inconsistent with such a course of dealings. Section 14(b) indicates that obligations of LMMs with respect to each class of options in his or her appointment specifically include the following: (i) To compete with other LMMs and Market Makers to improve the market in all series of options classes to which the LMM is appointed; (ii) To make markets that will be honored for the number of contracts entered into the Trading System in all series of options classes within the LMM's appointment; (iii) To update market quotations in response to changed market conditions in all series of options classes within the LMM's appointment; (iv) Options traded on the Trading System may be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid; (v) BX Regulation may establish quote width differences other than as provided in subparagraph (iv) for one or more options series.[19]

The Exchange believes that the proposed changes are consistent with the Act and raise no novel issues.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [20] in general, and furthers the objectives of Section 6(b)(5) of the Act [21] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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. BX Options operates in an intensely competitive environment and seeks to offer the same services that its competitors offer and in which its customers find value.

The Exchange believes that applying the same Rebates and Fees to all Customers, BX Options Market Makers, and Non-Customers in all Penny Pilot Options promotes just and equitable principles of trade, and fosters cooperation and coordination with persons engaged in facilitating transactions in Penny Pilot Options. The Exchange will uniformly apply the same Fees and Rebates to all Customer, Market Maker and non-Customer Penny Pilot Options and will no longer differentiate Fees and Rebates for BAC, IWM, QQQ, SPY, and VXX.

The proposed rule change also protects investors and the public interest and seeks to establish and promote just and equitable principles of trade by creating more uniformity and consistency among the Exchange's rules related to Fees and Rebates for all Penny Pilot Options. The Exchange believes that the proposal will not diminish and in fact may increase, market making activity on the Exchange by ensuring fees and rebates that are reasonable and already in place for Penny Pilot Options. With this proposal, the same rebates and fees will apply across the board to all Penny Pilot options.

The proposal is reasonable, equitable, and not unfairly discriminatory. The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to treat fees and rebates regarding all Penny Pilot Options, including BAC, IWM, QQQ, SPY and VXX, exactly the same. This would, for BAC, IWM, QQQ, SPY and VXX, effectively increase the Rebate to Add Liquidity for BX Options Market Makers when contra to a Non-Customer, BX Options Market Maker, or BX LMM from $0.00 to $0.10;[22] would increase the Fee to Add Liquidity for Customers when contra to a Customer from $0.10 to $0.40, and for BX Options Market Makers when contra to a Customer from $0.00 to as much as $0.40 per Tiers A, B, and C; and would increase the Rebate to Remove Liquidity for Customers from $0.00 to $0.35. As noted, the proposal would make all Penny Pilot Options exactly the same in terms of fees and rebates. The Exchange's model would thus assess a fee to add liquidity—across the board for all Penny Pilot Options for Customer, BX Options Market Maker and BX LMM, and Non-Customer. The proposed differentiation between BX Options Market Makers according to LMM tiers recognizes the differing contributions made to the liquidity and trading environment on the Exchange by BX Options Market Makers. In all Penny Pilot Options, Customer would continue to be assessed a smaller fee of $0.40 to Add Liquidity as opposed to a fee of $0.45 for non-Customer to Add Liquidity; and the Exchange would continue to uniformly assess, without tiers, the Fee to Add Liquidity in all Penny Pilot Options to all Customers and Non-Customers.[23] In all Penny Pilot Options, Customers would continue to not be assessed a Fee to Remove Liquidity while BX Options Market Makers and Non-Customers are assessed a $0.46 per contract Fee to Remove Liquidity. All fees and rebates would be applied uniformly by category of market participant per fee schedule. Moreover, the Exchange believes that adding the definition of LMM and amending the definition of Common Ownership in Chapter XV and updating the numbering of notes in Section 2

[17] The Exchange notes that NOM also has a tiered system for fees and rebates, albeit a different one than proposed by the Exchange.

[18] Renumbered note 5 is unchanged and states: ''The higher Fee to Add Liquidity will be assessed to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Customer.''

[19] In addition, Chapter VII, Section 14(b)(vi) requires, in part, that in the event the bid/ask differential in the underlying security is greater than the bid/ask differential set forth in subsections (b)(iv)–(v), the permissible price differential for any in-the-money option series may be identical to those in the underlying security market. In the case of the at-the-money and out-of-the-money series, BX Regulation may waive the requirements of subsections (b)(iv)–(v) on a case-by-case basis when the bid/ask differential for the underlying security is greater than .50. In such instances, the bid/ask differentials for the at-the-money series and the out-of-the-money series may be half as wide as the bid/ask differential in the underlying security in the primary market. For obligations with respect to unusual conditions, *see* Section 14(c). In the LMM approval order (Securities Exchange Act Release No. 72883), the Commission noted that the proposed rules regarding LMMs are substantially similar to the rules of other exchanges such as, for example, NASDAQ OMX PHLX Rules 501, 505, 506 and 511 and NYSE Arca Rules 6.37A and 6.37B.

[20] 15 U.S.C. 78f(b).

[21] 15 U.S.C. 78f(b)(5).

[22] Per note 2, the Rebate to Add Liquidity will be paid to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Non-Customer or BX Options Market Maker.

[23] In all Penny Pilot Options, Customer continues to be entitled to a Rebate to Remove Liquidity in Penny Pilot Options; BX Options Market Maker continues to be entitled to a Rebate to Add Liquidity; and BX Options Market Maker and non-Customer continues to be assessed a Fee to Remove Liquidity.

clarifies the uniformly applicable rebates and fees for Penny Pilot Options.

The Exchange further believes the previous pricing scheme employed in the above referenced symbols to incentivize BX Options Market Makers to provide liquidity is no longer necessary in light of the LMM changes and proposed rates discussed herein. The proposed differentiation between BX LMMs and other market participants in terms of tiers recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. The Exchange believes that this is reasonable, equitable, and not unfairly discriminatory. The Exchange notes that as a result of this proposal all rebates and fees would be applied uniformly to all market participants (Customers, BX Options Market Makers, and non-Customers).

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, BX has designed its fees and rebates to compete effectively for the execution and routing of Penny Pilot Options contracts on the Exchange.

The Exchange believes that the proposed amended fees and rebates will attract market participants and BX Options Market Makers to engage in market making activities at the Exchange, which results in tighter markets and order interaction and benefits all market participants. Moreover, BX Options Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[24] While BX Options Market Makers will be paying a Fee to Add Liquidity in all Penny Pilot Options that will not be higher than for Customers, Customers will pay a fee which is lower than that assessed to Non-Customers. The Exchange believes that this does not present an undue burden on competition because the pricing seeks to reward liquidity providers, which in turn benefits all market participants. The proposed differentiation between BX Options Market Makers, BX LMMs, and other market participants, which includes Tiers A, B, and C for BX LMMs, recognizes the differing above-discussed contributions made to the liquidity and trading environment on the Exchange by these market participants.

The Exchange believes the proposals discussed herein do not pose an undue burden on intermarket competition. The Exchange operates in a highly competitive market comprised of twelve U.S. options exchanges in which sophisticated and knowledgeable market participants can and do send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed fee and rebate scheme discussed herein is competitive. The Exchange believes that this competitive marketplace materially impacts the fees and rebates present on the Exchange today and substantially influences the proposal set forth above.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[25] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2015–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2015–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–004 and should be submitted on or before February 17, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01250 Filed 1–23–15; 8:45 am]

BILLING CODE 8011–01–P

[24] For example, pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a Market Maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5.

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

CAFTA–DR Dispute Settlement Proceeding Regarding Guatemala's Failure To Effectively Enforce Its Labor Laws

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that effective September 19, 2014, at the request of the United States, the arbitral panel reviewing the U.S. challenge to Guatemala's breach of its obligations under Article 16.2.1(a) of the Dominican Republic—Central America—United States Free Trade Agreement (''CAFTA–DR'') has begun its review.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before February 20, 2015, to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to *www.regulations.gov,* docket number USTR–2014–0023. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Kathleen Claussen, Assistant General Counsel, Office of the United States Trade Representative, 600 17th St. NW., Washington, DC 20508, (202) 395–9589.

SUPPLEMENTARY INFORMATION: USTR is providing notice that a dispute settlement arbitral panel (''panel'') has been established pursuant to Chapter Twenty of the CAFTA–DR and has now begun its work. The case documents and timetable for the proceedings are available to the public at the following Web site: *http://www.ustr.gov/trade-topics/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr.*

Issue Raised by the United States

On August 9, 2011, the United States requested a panel to review Guatemala's failure to effectively enforce its labor laws related to the right of association, the right to organize and bargain collectively, and acceptable conditions of work, through a sustained or recurring course of action or inaction, in a manner affecting trade between the CAFTA–DR Parties, contrary to Article 16.2.1(a) of the CAFTA–DR. The United States and Guatemala requested the panel to suspend its work to allow the Parties to negotiate and implement an Enforcement Plan. Despite engagement through the Enforcement Plan, the concerns regarding effective enforcement of Guatemala's labor laws remain. As a result, the United States requested the panel to resume its work, effective September 19, 2014. The United States filed its opening submission on November 3, 2014.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *www.regulations.gov* docket number USTR–2014–0023. If you are unable to provide submissions at *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *www.regulations.gov,* enter docket number USTR–2014–0023 on the home page and click ''search''. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to use Regulations.gov'' under ''Help'' on the bottom of the page.)

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comments'' field, or by attaching a document using an ''Upload File'' field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field.

A person requesting that information contained in a comment that he/she submitted be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter.

Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with Section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection. USTR will maintain a docket on this dispute settlement proceeding, docket number USTR–2014–0023, accessible to the public at *www.regulations.gov.*

The public file will include non-confidential comments received by USTR from the public regarding the dispute. The following documents will be made available to the public at *www.ustr.gov*: The U.S. submissions and any non-confidential summaries or submissions received from other participants in the dispute. Comments open to public inspection may be viewed at *www.regulations.gov.*

Juan A. Millán,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 2015–01329 Filed 1–23–15; 8:45 am]

BILLING CODE 3290–F5–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WTO/DS488]

WTO Dispute Settlement Proceeding Regarding United States—Anti-Dumping Measures on Oil Country Tubular Goods From Korea

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on December 22, 2014, the Republic of Korea requested consultations with the United States under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') concerning antidumping measures on oil country tubular goods from Korea. That request may be found at *www.wto.org* contained in a document designated as WT/DS488/1. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before February 18, 2015, to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to *www.regulations.gov,* docket number USTR–2015–0001. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: Matthew Jaffe, Assistant General Counsel, or Ross Bidlingmaier, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508, (202) 395–3150.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by Korea

On July 18, 2014, the Department of Commerce (''Commerce'') published in the **Federal Register** notice of its final affirmative less-than-fair-value (''LTFV'') determination in the antidumping investigation concerning oil country tubular goods from Korea (79 FR 41983). On September 10, 2014, Commerce published the antidumping duty order (79 FR 53691).

On December 22, 2014, Korea requested consultations concerning antidumping measures on oil country tubular goods from Korea. Korea's challenge includes the final LTFV determination and antidumping order, as well as ''all administrative reviews, new shipper reviews, changed circumstances reviews, sunset reviews, and other segments.'' Korea alleges that these measures are inconsistent with various provisions of the Anti-Dumping Agreement and the General Agreement on Tariffs and Trade 1994.

In its request for consultations, Korea challenges Commerce's calculation of the constructed value profit rate for the Korean respondents. Korea alleges inconsistencies with Articles 2.2, 2.2.2, 2.4, 6.2, 6.4, 6.9, and 12.2.2 of the Anti-Dumping Agreement, and Articles I and X:3 of the General Agreement on Tariffs and Trade 1994.

Korea also challenges Commerce's conclusion that ''the Korean respondent NEXTEEL was affiliated with an unaffiliated supplier and an unaffiliated customer'' within the meaning of Article 2.3 of the Anti-Dumping Agreement. In addition, Korea challenges Commerce's decision to select two mandatory respondents as inconsistent with Article 6.10, including Articles 6.10.1 and 6.10.2 of the Anti-Dumping Agreement.

Finally, Korea challenges ''as such'' Commerce's use of an alleged methodology to determine whether a respondent's home market sales are viable for the purposes of calculating normal value. Korea also challenges Commerce's application of this alleged methodology in the measures included in Korea's request for consultations. Korea alleges inconsistencies with Article 2.2 of the Anti-Dumping Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *www.regulations.gov* docket number USTR–2015–0001. If you are unable to provide submissions by *www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *www.regulations.gov,* enter docket number USTR–2015–0001 on the home page and click ''search''. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page.)

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comments'' field, or by attaching a document using an ''Upload File'' field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comments'' field.

A person requesting that information contained in a comment that he/she submitted be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

USTR may determine that information or advice contained in a comment submitted, other than business confidential information, is confidential in accordance with Section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the

top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to *www.regulations.gov.* The non-confidential summary will be placed in the docket and will be open to public inspection.

Pursuant to section 127(e) of the Uruguay Round Agreements Act (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR–2015–0001, accessible to the public at *www.regulations.gov.*

The public file will include non-confidential comments received by USTR from the public regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from such a panel, the following documents will be made available to the public at *www.ustr.gov*: The United States' submissions, any non-confidential submissions received from other participants in the dispute, and any non-confidential summaries of submissions received from other participants in the dispute. In the event that a dispute settlement panel is convened, or in the event of an appeal from such a panel, the report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the Web site of the World Trade Organization, at *www.wto.org.* Comments open to public inspection may be viewed at *www.regulations.gov.*

Juan Millan,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 2015–01332 Filed 1–23–15; 8:45 am]

BILLING CODE 3290–F5–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No: FAA–2011–0786]

Deadline for Notification of Intent To Use the Airport Improvement Program (AIP) Primary, Cargo, and Nonprimary Entitlement Funds for Fiscal Year 2015

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces May 1, 2015, as the deadline for each airport sponsor to notify the FAA whether or not it will use its fiscal year 2015 entitlement funds available under Section 47114 of Title 49, United States Code, to accomplish Airport Improvement Program (AIP)-eligible projects that the sponsor previously identified through the Airports Capital Improvement Plan (ACIP) process during the preceding year.

The sponsor's notification must address all entitlement funds apportioned for fiscal year 2015, as well as any entitlement funds not obligated from prior years. After Thursday, July 2, 2015, the FAA will carry over all remaining entitlement funds, and the funds will not be available again until at least the beginning of fiscal year 2016. This notification requirement does not apply to non-primary airports covered by the block-grant program.

FOR FURTHER INFORMATION CONTACT: Mr. Frank J. San Martin, Manager, Airports Financial Assistance Division, APP–500, on (202) 267–3831.

SUPPLEMENTARY INFORMATION: Title 49 of the United States Code, section 47105(f), provides that the sponsor of each airport to which funds are apportioned shall notify the Secretary by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for its apportioned funds, also called entitlement funds. Therefore, the FAA is hereby notifying sponsors about steps required to ensure that the FAA has sufficient time to carryover and convert remaining entitlement funds, due to processes required under federal laws. This notice applies only to those airports that have had entitlement funds apportioned to them, except those nonprimary airports located in designated Block Grant States. Sponsors intending to apply for any of their available entitlement funds, including those unused from prior years, shall submit by 12 p.m. prevailing local time on Friday, May 1, 2015, a written indication to the designated Airports District Office (or Regional Office in regions without Airports District Offices) their intent to submit a grant application no later than close of business Thursday, July 2, 2015, to use their fiscal year 2015 entitlement funds available under Title 49 of the United States Code, section 47114. This notice must address all entitlement funds apportioned for fiscal year 2015 including those entitlement funds not obligated from prior years. By Friday, June 5, 2015, airport sponsors that have not yet submitted a final application to the FAA, should notify the FAA of any issues with meeting the final application deadline of Thursday July 2, 2015. Absent notification from the sponsor by the May 1 deadline and/or subsequent notification by the June 5 deadline of any issues with meeting the application deadline, the FAA will proceed after Thursday, July 2, 2015 to take action to carry over all remaining entitlement funds without further notice. The funds will not be available again until at least the beginning of fiscal year 2016.

This notice is promulgated to expedite and facilitate the grant-making process.

The AIP grant program is operating under the requirements of Public Law 112–91, the ''FAA Modernization and Reform Act of 2012,'' enacted on February 14, 2012, which authorizes the FAA through September 30, 2015 and the ''Consolidated and Further Continuing Appropriations Act, 2015'' which appropriates FY 2015 funds for the AIP.

Issued in Washington, DC, on January 20, 2015.

Elliott Black,

Director, Office of Airport Planning and Programming.

[FR Doc. 2015–01318 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: The FAA assigned the Aviation Rulemaking Advisory Committee (ARAC) a new task to provide recommendations regarding revision of the damage-tolerance and fatigue requirements of Title 14, Code of Federal Regulations (14 CFR), part 25, including subparts C and E of 14 CFR part 26, and development of associated advisory material for metallic, composite, and hybrid structures. Past changes to the damage-tolerance and fatigue airworthiness standards and advisory material have been more specific to transport airplanes constructed predominantly of metal, using skin-stringer-frame architecture. Today, the trend in industry is to use more composite and hybrid structures (*i.e.,* structure that includes a combination of composite and metallic parts and assemblies) to improve the performance of transport airplanes. As a result, the damage-tolerance and fatigue airworthiness standards and advisory

material may not be adequate to address this trend. This notice informs the public of the new ARAC activity and solicits membership for the new Transport Airplane Metallic and Composite Structures Working Group.

FOR FURTHER INFORMATION CONTACT: Walt Sippel, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, *walter.sippel@faa.gov,* phone number 425–227–2774, facsimile number 425–227–1232.

SUPPLEMENTARY INFORMATION:

ARAC Acceptance of Task

As a result of the December 18, 2014, ARAC meeting, the FAA has assigned and ARAC has accepted this task establishing the Transport Airplane Metallic and Composite Structures Working Group, under the Transport Airplane and Engine (TAE) Subcommittee. The working group will serve as staff to the ARAC and provide advice and recommendations on the assigned task. The ARAC will review and approve the recommendation report and will submit it to the FAA.

Background

The FAA established the ARAC to provide information, advice, and recommendations on aviation related issues that could result in rulemaking to the FAA Administrator, through the Associate Administrator of Aviation Safety.

The Transport Airplane Metallic and Composite Structures Working Group will provide advice and recommendations to the ARAC on the damage-tolerance and fatigue requirements of part 25 and any associated advisory material for metallic, composite, and hybrid structures. This includes the requirements of and regulatory guidance material for subparts C and E of part 26 and any associated advisory material.

The requirements of § 25.571 apply equally to structure constructed from either metallic or nonmetallic materials. Guidance material is contained in the Federal Aviation Administration (FAA) Advisory Circulars (AC) 25.571–1D and 20–107B for metallic and composite structures, respectively. The changes to § 25.571 that the FAA has adopted over the years have been more specific to the technical issues primarily associated with metallic structure. In Amendment 25–132 to § 25.571, the FAA added requirements for applicants to establish a limit of validity of the engineering data that supports the structural maintenance program (hereafter referred to as LOV) and to demonstrate that widespread fatigue damage (WFD) will not occur in the airplane prior to reaching the LOV. The objective of this change, along with the development of the related guidance material, was focused on addressing the normal fatigue wear-out of metallic structure. Among other things, § 25.571 requires applicants to establish an LOV based on WFD considerations, and identify in the structural-maintenance program all maintenance actions required to address fatigue, environmental damage, and accidental damage throughout the operational life of the airplane. In a similar way, subpart C requires certain actions to prevent catastrophic failure due to WFD throughout the operational life of certain existing transport category airplanes. The FAA also adopted subpart E of part 26 to require holders of design approvals to make available to operators damage tolerance data for repairs and alterations to fatigue critical airplane structure. In addition to AC 25.571–1D, guidance material for subparts C and E of part 26 are contained in ACs 120–104 and 120–93, respectively. Because the adoption of those requirements and § 25.571 were primarily focused on metallic structure, the FAA needs to evaluate those rules and advisory material to determine whether further changes are required to address composite structures.

Remaining Rulemaking Recommendations

In 1995, the FAA tasked the ARAC to recommend appropriate revisions for harmonization of § 25.571, supporting policy and guidance material, and corresponding paragraph 25.571 of the Joint Aviation Requirements (JAR), which is now Certification Specification (CS) 25.571 under the European Aviation Safety Agency (EASA). The ARAC formed the General Structures Harmonization Working Group (GSHWG) to carry out that task. In 2003, the GSHWG submitted the Working Group Report on § 25.571 and JAR 25.571 [CS 25.571] to ARAC. That report described proposed changes to harmonize the rules and related guidance material. The GSHWG recommended revising or adding requirements for inspection thresholds, LOV, and structural damage capability.

Subpart C of part 26 and § 25.571, Amendment 25–132, incorporated the recommendation to add requirements for establishing an LOV. The FAA has not yet addressed the GSHWG recommendations related to inspection thresholds and structural damage capability, and would request these be considered in the context of this rulemaking, which include:

- Replacing the prescriptive requirement of § 25.571(a)(3) for setting damage-tolerance inspection thresholds with a performance-based requirement.
- Adding a requirement for showing structural capability in the presence of damage, so that even if the structure fails partially, there will still be enough structure remaining to be safe.

Increased Use of Composites

Today, the trend in industry is to use more composite structures than in the past. The Small Airplane and Rotorcraft Directorates addressed this trend by creating separate rules for parts 23, 27 and 29 for composite structures (§ 2X.573). This tasking will consider the changes to those rules as part of the evaluation of the damage-tolerance and fatigue airworthiness standards and associated advisory material.

In June of 2009, the FAA Transport Airplane Directorate sought comments through the **Federal Register** (74 FR 26919) on a need for future rulemaking to address extensive use of composite materials in transport category airplane construction. Several candidate technical areas were noted in the request, including fire safety, crashworthiness, lightning protection, fuel tank safety and damage-tolerance. The response by industry indicated that each area needs improved guidance and possible rulemaking. We believe the damage-tolerance requirements would require relatively small changes versus some of the updates desired in other areas.

Composite considerations the working group will need to address include:

- Composite analyses and test protocols as related to evolving industry practices and the development of regulatory standards.
- Composite damage threats (*e.g.,* environmental and accidental damage) and associated maintenance practices.
- Large-scale test demonstration of repeated-load reliability and a need to use load enhancement factors for composite structure.
- Thermal stresses generated between metal-composite interfaces, which are difficult to replicate in structural repeated-load testing but are required by § 25.571 to be considered.

Future Applicability

Any future change to § 25.571 should be performance-based to the extent possible, allowing application to not only current aerospace materials and material systems, but those yet to be developed (*i.e.,* emerging technology). Guidance material, including changes to AC 25.571–1D, or AC 20–107B, should provide complete guidance for

traditional metal structure, composite structure, and hybrid structure (*i.e.,* structures that include a combination of composite and metallic parts and assemblies).

There are other FAA initiatives in the area of transport crashworthiness, fuel tank lightning protection, and composite flammability testing, which will lead to further standardization of requirements related to composite airframes. These initiatives would not affect § 25.571.

The Task

The Transport Airplane Metallic and Composite Structures Working Group is tasked to:

1. Evaluate § 25.571, subparts C and E of part 26, and associated regulatory guidance material (*e.g.,* advisory circulars and policy statements) to determine whether any changes to the airworthiness standards and/or guidance material are required to address transport airplanes being constructed of metallic, composite, and hybrid structures. The working group is also tasked to evaluate whether any changes to part 25 and the associated regulatory guidance material are required to provide consistency with the damage-tolerance and fatigue airworthiness standards and associated guidance material for parts 23, 27, and 29. The working group is requested to include in its evaluation a review of the following advisory circulars (AC) and policy statements (PS):

a. Advisory Circulars: AC 25.571–1, Damage Tolerance and Fatigue Evaluation of Structure; AC 20–107, Composite Airframe Structure; AC 120–93, Damage Tolerance Inspections for Repairs and Alterations; AC 120–104, Establishing and Implementing Limit of Validity to Prevent Widespread Fatigue Damage; AC 27–1, Certification of Normal Category Rotorcraft (specifically, Subpart C—Strength Requirements); and AC 29–2, Certification of Transport Category Rotorcraft (specifically, Subpart C—Strength Requirements).

b. Policy Statements: PS–ANM100–1989–00048, Policy Regarding Impact of Modifications and Repairs on the Damage Tolerance Characteristics of Transport Category Airplanes; PS–ACE100–2001–006, Static Strength Substantiation of Composite Airplane Structure; PS–AIR–100–120–07, Guidance for Component Contractor Generated Composite Design Values for Composite Structure; PS–ACE100–2002–006, Material Qualification and Equivalency for Polymer Matrix Composite Material Systems; PS–ANM–100–1991–00049, Policy Regarding Material Strength Properties and Design Values, § 25.613; PS–ANM100–1993, Compliance with § 25.571(e) Discrete Source Damage (Uncontained Engine Failure).

2. Advise and make written recommendations on whether to change 14 CFR part 25, subparts C and E of 14 CFR part 26, and related regulatory guidance material, such as ACs 25.571–1, 20–107, 120–93, and 120–104, to address the use of metallic, composite, and hybrid structures in transport airplanes. In developing the recommendations, the working group is requested to consider:

a. The threats associated with fatigue, environmental exposure, and accidental damage that must be addressed per § 25.571.

b. Applicability to emerging technology materials.

c. The recommendations contained in the 2003 General Structures Harmonization Working Group (GSHWG) report entitled, ''Damage Tolerance and Fatigue Evaluation of Structures, FAR/JAR § 25.571.'' You can find the GSHWG report at *http://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information/documentID/384.* The working group recommendations should include whether it is appropriate to:

i. Require applicants to assume the structure contains an initial flaw of the maximum probable size that could exist as a result of manufacturing or service-induced damage.

ii. Add a requirement for showing structural capability in the presence of damage, so that even if the structure fails partially, there will still be enough structure remaining to be safe.

d. The continued operational safety of composite and hybrid structures as they age, including any airworthiness limitations in the structural maintenance program.

e. The testing of hybrid structure, including, but not limited to, addressing thermal effects, test duration, load enhancement factors, and crack-growth retardation.

f. The bonding or bolting of repairs to metallic, composite, and hybrid structures.

g. The certification of large structural modifications on transport airplanes constructed of composite or hybrid structures.

h. The EASA rulemaking activity on aging aircraft for harmonization purposes.

3. Provide recommendations on appropriate performance-based requirements to address the results of the evaluations above, with consideration of applicability not only to metals and known composites, but also other emerging technology materials.

4. Provide recommendations on any new guidance or changes to existing guidance, including AC 25.571–1D, and AC 20–107B to address the results of the evaluations above.

5. Provide initial qualitative and quantitative costs and benefits. Based on the recommendations, perform the following:

a. Estimate the costs to implement the recommendations;

b. Estimate the benefits of the recommendations in terms of potential fatalities averted;

c. Estimate any other benefits (*e.g.,* reduced administrative burden) that would result from implementation of the recommendations.

6. Develop a report containing recommendations on the findings and results of the tasks explained above.

a. The recommendation report should document both majority and dissenting positions on the findings and the rationale for each position.

b. Any disagreements should be documented, including the rationale for each position and the reasons for the disagreement.

7. The working group may be reinstated to assist the ARAC by responding to the FAA's questions or concerns after the recommendation report has been submitted.

Schedule

The recommendation report must be submitted to the FAA for review and acceptance no later than 24 months after publication of this notice.

Working Group Activity

The Transport Airplane Metallic and Composite Structures Working Group must comply with the procedures adopted by the ARAC. As part of the procedures, the working group must:

1. Conduct a review and analysis of the assigned tasks and any other related materials or documents.

2. Draft and submit a work plan for completion of the task, including the rationale supporting such a plan, for consideration by the Transport Airplane and Engine Subcommittee.

3. Provide a status report at each Transport Airplane and Engine Subcommittee meeting.

4. Draft and submit the recommendation report based on the review and analysis of the assigned tasks.

5. Present the recommendation report at the Transport Airplane and Engine Subcommittee meeting.

6. Present the findings from the additional tasks at the Transport Airplane and Engine Subcommittee meeting.

7. Present the findings in response to the FAA's questions or concerns about the recommendation report at the Transport Airplane and Engine Subcommittee meeting.

Participation in the Working Group

The Transport Airplane Metallic and Composite Structures Working Group will be comprised of technical experts having an interest in the assigned task. A working group member need not be a member representative of the ARAC. The FAA would like a wide range of members to ensure all aspects of the tasks are considered in development of the recommendations. The provisions of the August 13, 2014, Office of Management and Budget guidance, ''Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions'' (79 FR 47482), continues the ban on registered lobbyists participating on Agency Boards and Commissions if participating in their ''individual capacity.'' The revised guidance now allows registered lobbyists to participate on Agency Boards and Commissions in a ''representative capacity'' for the ''express purpose of providing a committee with the views of a nongovernmental entity, a recognizable group of persons or nongovernmental entities (an industry, sector, labor unions, or environmental groups, etc.) or state or local government.'' (For further information see Lobbying Disclosure Act of 1995 (LDA) as amended, 2 U.S.C 1603, 1604, and 1605.)

If you wish to become a member of the Transport Airplane Metallic and Composite Structures Working Group, write the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire. Describe your interest in the task and state the expertise you would bring to the working group. The FAA must receive all requests by February 25, 2015. The ARAC and the FAA will review the requests and advise you whether or not your request is approved.

If you are chosen for membership on the working group, you must actively participate in the working group by attending all meetings, and providing written comments when requested to do so. You must devote the resources necessary to support the working group in meeting any assigned deadlines. You must keep your management chain and those you may represent advised of working group activities and decisions to ensure the proposed technical solutions do not conflict with the position of those you represent. Once the working group has begun deliberations, members will not be added or substituted without the approval of the Transport Airplane and Engine Subcommittee Chair, the FAA, including the Designated Federal Officer, and the Working Group Chair.

The Secretary of Transportation determined the formation and use of the ARAC is necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

ARAC meetings are open to the public. However, meetings of the Transport Airplane Metallic and Composite Structures Working Group are not open to the public, except to the extent individuals with an interest and expertise are selected to participate. The FAA will make no public announcement of working group meetings.

Issued in Washington, DC, on January 16, 2015.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2015–01044 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2015–0001]

Establishment of an Emergency Relief Docket for Calendar Year 2015

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of establishment of public docket.

SUMMARY: This Notice announces the establishment of FRA's Emergency Relief Docket (ERD) for calendar year 2015. The designated ERD for calendar year 2015 is Docket Number FRA–2015–0001.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for further information regarding submitting petitions and/or comments to Docket Number FRA–2015–0001.

SUPPLEMENTARY INFORMATION: On May 19, 2009, FRA published a direct final rule addressing the establishment of ERDs and the procedures for handling petitions for emergency waivers of safety rules, regulations, or standards during an emergency situation or event. 74 FR 23329. That direct final rule became effective on July 20, 2009, and made minor modifications to Title 49 Code of Federal Regulations (CFR) 211.45 in FRA's Rules of Practice published at 49 CFR part 211. Paragraph (b) of 49 CFR 211.45 provides that each calendar year, FRA will establish an ERD in the publicly accessible DOT docket system (available on the internet at *http://www.regulations.gov*). Paragraph (b) of 49 CFR 211.45 further provides that FRA will publish a notice in the **Federal Register** identifying by docket number the ERD for that year. As noted in the rule, FRA's purpose for establishing the ERD and emergency waiver procedures is to provide an expedited process for FRA to address the needs of the public and the railroad industry during emergency situations or events. This Notice announces that the designated ERD for calendar year 2015 is Docket Number FRA–2015–0001.

As detailed in 49 CFR 211.45, if the FRA Administrator determines that an emergency event as defined in 49 CFR 211.45(a) has occurred, or that an imminent threat of such an emergency occurring exists, and public safety would benefit from providing the railroad industry with operational relief, the emergency waiver procedures of 49 CFR 211.45 will go into effect. In such an event, the FRA Administrator will issue a statement in the ERD indicating that the emergency waiver procedures are in effect and FRA will make every effort to post the statement on its Web site at *http://www.fra.dot.gov/*. Any party desiring relief from FRA regulatory requirements as a result of the emergency situation should submit a petition for emergency waiver in accordance with 49 CFR 211.45(e) and (f). Specific instructions for filing petitions for emergency waivers in accordance with 49 CFR 211.45 are found at 49 CFR 211.45(f). Specific instructions for filing comments in response to petitions for emergency waivers are found at 49 CFR 211.45(h).

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 January 20, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–01233 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2012–0079]

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 October 22, 2014, the Long Island Rail Road Company (LIRR) has petitioned the Federal Railroad Administration (FRA) for an extension of its waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 228.405(a)(3). FRA assigned the petition Docket Number FRA–2012–0079.

In its petition, LIRR seeks a waiver allowing the series of at most 14 consecutive calendar days to reset after a general pick, or a large timetable revision. A general pick, as described by LIRR, is a biannual event allowing train employees to bid on jobs, with jobs being awarded based on an employee's seniority. FRA's current policy only allows a maximum series of at most 14 consecutive calendar days (to reset at the end of the 14th day), or when an employee does not initiate an on-duty period for any 2 calendar days within the 14 consecutive calendar-day series.

In support of its initial request, LIRR explained that after the first general pick, about 20 employees were required to take 1 or 2 workdays off to avoid violating Federal requirements. As a result, employees suffered financially, and employee availability was reduced, disrupting LIRR's ability to provide timely and efficient service for its customers. LIRR argues that allowing the 14 consecutive calendar-day series to reset after a general pick, or a large timetable revision, will prevent any future employee financial losses and disruptions in LIRR's ability to provide optimum service to its customers. LIRR noted that there have been no material changes in circumstances since the original waiver was granted. Furthermore, LIRR states that its train employees continue to indicate support for the waiver.

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 March 12, 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 January 20, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015–01234 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0021; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2000 East Lancs Lolyne Double Decker Bus Mounted on Volvo B7L Chassis Is Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 2000 East Lancs Lolyne double decker buses mounted on Volvo B7L chasses that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is February 25, 2015.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: 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. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

How To Read Comments Submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS, and has no substantially similar U.S.-certified counterpart, shall be refused admission into the United States unless NHTSA has decided that the motor vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes a notice in the **Federal Register** for each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes its decision in the **Federal Register**.

US Specs, of Havre de Grave, Maryland (Registered Importer 03–321) has petitioned NHTSA to decide whether nonconforming MY 2000 East Lancs double decker buses mounted on Volvo B7L chasses are eligible for importation into the United States.

US Specs submitted information with its petition intended to demonstrate that non-U.S. certified MY 2000 East Lancs Lolyne double decker buses mounted on Volvo B7L chasses, as originally manufactured, conform to several FMVSS, and are capable of being altered to conform to additional FMVSS.

Specifically, the petitioner claims that non-U.S. certified MY 2000 East Lancs double decker buses mounted on Volvo B7L chasses, as originally manufactured, comply with the following standards:

Standard No. 103 *Windshield Defrosting and Defogging Systems:* Petitioner submitted a system description, specifications, and photographs meant to indicate compliance with the standard.

Standard No. 106 *Brake Hoses:* The petition states that the brake hoses comply with standard.

The petitioner also contends that the vehicle is capable of being altered to meet the following standards, in the manners indicated:

Standard No. 101 *Controls and Displays:* Replacement of the speedometer and installation of a conforming driver's seat belt, parking brake, and brake pressure controls, telltales, and indicators if the vehicle is not already so equipped.

Standard No. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect:* The petitioner states that the vehicle it inspected complies with the standard. However, each vehicle must be inspected, and if necessary modified to assure compliance with the standard.

Standard No. 104 *Windshield Wiping and Washing Systems:* The petitioner submitted test reports meant to indicate compliance with the standard; however, each vehicle must be inspected to assure compliance and have the windshield wiping and washing system modified or replaced to be compliant, if necessary.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Installation of the following components to meet the requirements of the standard if the vehicle is not already so equipped: tail lamp assemblies, front and rear side lamp assemblies, front and rear clearance lamp assemblies, front and rear identification light assemblies, license plate lamp, headlights, and reflective devices.

Standard No. 111 *Rearview Mirrors:* Each vehicle must be inspected to assure compliance with the standard. Any non-compliant mirrors will be replaced to meet the requirements of this standard.

Standard No. 119 *New Pneumatic Tires for Vehicles Other Than Passenger Cars:* Replacement of tires with conforming components if the vehicle is not already so equipped.

Standard No. 120 *Tire Selection and Rims for Vehicles Other Than Passenger Cars:* Installation of a tire information placard and replacement of rims with conforming components if the vehicle is not already so equipped.

Standard No. 121 *Air Brake Systems:* Replacement of brake system indicators and replacement of brake system components as required to meet this standard. The petitioner submitted test reports meant to indicate that compliance can be achieved after these modifications are carried out.

Standard No. 124 *Accelerator Control Systems:* Installation of an accelerator control system component to meet the requirements of this standard. The petitioner submitted documentation intended to show that with this modification, compliance with the standard can be achieved.

Standard No. 205 *Glazing Materials:* Replacement of glazing as part of the emergency exits installed to meet the requirements of FMVSS Nos. 217. The petitioner submitted photographs detailing labeling and certification of all window exits meant to indicate compliance with the standard.

Standard No. 207 *Seating Systems:* Replacement of the driver's seating system to meet the requirements of this standard. The petitioner submitted manufacturer test reports meant to show compliance for the replacement seating system installed.

Standard No. 208 *Occupant Crash Protection:* Replacement of the driver's seating system, and addition of visual and audible seat belt warning devices to comply with the requirements of this standard.

Standard No. 209 *Seat Belt Assemblies:* Replacement of seatbelts as part of the driver's seating system installed to meet the requirements of FMVSS Nos. 207 and 208. The petitioner submitted test reports intended to indicate compliance with the standard after these modifications are performed.

Standard No. 210 *Seat Belt Assembly Anchorages:* Replacement of anchorages as part of the driver's seating system installed to meet the requirements of FMVSS Nos. 207 and 208. The petitioner submitted test reports intended to indicate compliance with the standard after these modifications are performed.

Standard No. 217 *Bus Emergency Exits and Window Retention and Release:* Installation of a compliant emergency escape hatch and emergency escape windows in a manner consistent with the requirements of this standard. Test reports were submitted meant to indicate that compliance with the standard can be achieved after these modifications are performed.

Standard No. 302 *Flammability of Interior Materials:* Inspection of each vehicle and removal and replacement of all interior components that do not conform to the requirements of this standard. Test reports meant to indicate compliance were submitted for interior materials present on the petition vehicle.

The petitioner additionally states that a certification label must be affixed to meet the requirements of 49 CFR part 567.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Jeffrey M. Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–01203 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0028; Notice 2]

Toyota Motor Engineering & Manufacturing North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Toyota Motor Engineering & Manufacturing North America, Inc., on behalf of Toyota Motor Corporation and certain Toyota manufacturing entities (collectively referred to as ''Toyota'') have determined that specific model year (MY) 2013–2014 Toyota vehicles do not fully comply with paragraph S4 of Federal Motor Vehicle Safety Standard (FMVSS) No. 302, *Flammability of Interior Materials.* Toyota has filed an appropriate report dated January 29, 2014 as amended on February 20, 2014 pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

ADDRESSES: For further information on this decision contact Michael Cole, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2334, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. *Toyota's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Toyota has petitioned 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.

Notice of receipt of Toyota's petition was published, with a 30-Day public comment period, on March 11, 2014 in the **Federal Register** (FR 13733). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2014–0028.''

II. *Vehicles Involved:* Affected are approximately 206,271 MY 2012–14 Camry, Avalon, Corolla, Sienna, Tundra, and Tacoma model Toyota vehicles. Refer to the amended report that Toyota filed pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* that Toyota included as attachment to its petition for identification of the associated Toyota manufacturing entities as well as additional details about the vehicles involved.

III. *Noncompliance:* Toyota explains that the noncompliance is that the front and rear seat cushions and front and rear seat backs in the subject vehicles fail to fully meet the requirements of paragraph S4 of FMVSS No. 302 because seat cushion and seat back components, when tested separately, failed to meet the burn rate requirements of paragraph S4.3. Toyota identified the noncompliant components as seat heater assemblies. Toyota also states that all other components of the seat required to meet FMVSS No. 302 are in compliance with the standard.

IV. *Rule Text:* Paragraph S4 of FMVSS No. 302 requires in pertinent part:

S4.1 The portions described in S4.2 of the following components of vehicle occupant compartments shall meet the requirements of S4.3: seat cushions, seat backs, seat belts, headlining, convertible tops, arm rests, all trim panels including door, front, rear, and side panels, compartment shelves, head restraints, floor coverings, sun visors, curtains, shades, wheel housing covers, engine compartment covers, mattress covers, and any other interior materials, including padding and crash-deployed elements, that are designed to absorb energy on contact by occupants in the event of a crash . . .

S4.2 Any portion of a single or composite material which is within 13 mm of the occupant compartment air space shall meet the requirements of S4.3.

S4.2.1 Any material that does not adhere to other material(s) at every point of contact shall meet the requirements of S4.3 when tested separately . . .

S4.3 (a) When tested in accordance with S5, material described in S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 102 mm per minute. The requirement concerning transmission of a flame front shall not apply to a surface created by cutting a test specimen for purposes of testing pursuant to S5.

(b) If a material stops burning before it has burned for 60 seconds from the start of timing, and has not burned more than 51 mm from the point where the timing was started, it shall be considered to meet the burn-rate requirement of S4.3(a).

V. *Summary of Toyota's Analyses:* Toyota stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. Toyota believes that its testing shows that the seat heater assemblies comply with FMVSS No. 302 when tested as a ''composite'' as installed in the vehicle, *i.e.,* along with the surrounding FMVSS No. 302 compliant seat cover, plus pad, and foam pad.

2. Toyota believes that its testing and design review of the seat heater assemblies indicates that the chance of fire or flame induced by a malfunctioning seat heater is essentially zero.

3. Toyota believes that the purpose of FMVSS No. 302 is to ''. . . reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such

as matches or cigarettes.[1]'' The noncompliant seat heater assemblies would normally not be exposed to open flame or an ignition source (like matches or cigarettes) in its installed application, because it is installed within and surrounded by complying materials that meet FMVSS No. 302.

4. The seat heater assembly is a very small portion of the overall mass of the soft material portions comprising the entire seat assembly (*i.e.* less than 1%), and is significantly less in relation to the entire vehicle interior surface area that could potentially be exposed to flame. Therefore, Toyota believes that it would have an insignificant adverse effect on interior material burn rate and the potential for occupant injury due to interior fire.

5. Toyota is not aware of any data suggesting that fires have occurred in the field due to the installation of the non-complying seat heater assemblies.

6. Toyota also expressed its belief that in similar situations NHTSA has granted petitions for inconsequential noncompliance relating to FMVSS No. 302 requirements.

Toyota additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 302.

Toyota also provided Transport Canada's October 1, 2014, grant letter to exempt it from conducting a recall and remedy campaign for the identical issue for vehicles that were sold in Canada.[2]

In summation, Toyota believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt Toyota 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 Decision

NHTSA Analysis: NHTSA has reviewed and accepts Toyota's analyses that the subject noncompliance is inconsequential to motor vehicle safety. Specifically, the fact that the front and rear seat cushions and front and rear seat backs in the subject vehicles fail to meet the burn rates requirement, poses little if any risk to motor vehicle safety.

NHTSA's greatest concern was that as a seat heater, the device itself is the most likely ignition source. However, Toyota stated that it is not aware of any data suggesting that vehicle fires have occurred in the field due to the non-complying seat heaters. NHTSA searched its complaints database from the year 2000 to current and also found no complaints concerning the subject vehicles. We did find four Toyota seat heater complaints concerning older vehicles (three Toyota Sienna's model years 2006 and two 2004's and a 2007 Toyota Camry). While these complaints appear to show that seat heaters can be potential ignition sources, the hazard does not appear to be widespread or an issue with the subject vehicles. Toyota also conducted various testing to show that the seat heater element would not act as an ignition source when overdriven electrically, nor would it accommodate a flame rate beyond what is permitted by FMVSS No. 302 when exposed directly to an open flame in the installed condition (as a composite). Toyota also demonstrated that the seat heater is a very small portion of the overall mass of the seat assembly and that NHTSA has granted prior inconsequentiality petitions for similar issues.

Based on its review of Toyota's submission, the agency has concluded that the ''seat heaters'' in the noncompliant vehicles are unlikely to pose a flammability risk. This conclusion is consistent with Transport Canada's review of the identical issue. NHTSA's evaluation of the consequentiality of this noncompliance should not be interpreted as a diminution of the agency's safety concern for the flammability of interior materials. Rather, it represents NHTSA's assessment of the gravity of this specific noncompliance based upon the likely consequences. Ultimately, the issue is whether this particular noncompliance is likely to create a risk to safety. NHTSA is not aware of any occupant injuries regarding these seat heaters. Based on the foregoing, NHTSA has decided that Toyota has met its burden of persuasion that the noncompliance herein described is inconsequential to motor vehicle safety.

To avoid confusion, NHTSA would like to note that an existing NHTSA safety recall campaign involving approximately 3,233 Toyota vehicles is unaffected by this inconsequential noncompliance decision. That safety recall campaign is being conducted by an independent motor vehicle distributor that modified Toyota vehicles with defective aftermarket seat heaters that can malfunction and burn holes in the seating materials. For more information refer to NHTSA Recall ID Number 14V–743 at: *http://www.safercar.gov.*

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that Toyota has met its burden of persuasion that the FMVSS No. 302 noncompliance is inconsequential to motor vehicle safety. Accordingly, Toyota's petition is hereby granted and Toyota is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

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 Toyota no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve Toyota 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 Toyota 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,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2015–01204 Filed 1–23–15; 8:45 am]

BILLING CODE 4910–59–P

[1] Paragraph S2 of FMVSS No. 302 Flammability of Interior Materials.

[2] Docket ID: NHTSA–2014–0028–0003.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 21, 2015.

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 25, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to

(1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

Bureau of the Fiscal Service (FS)

OMB Number: 1530–0010.

Type of Review: Revision of a currently approved collection.

Title: Claim Against the United States for the Proceeds of a Government Check.

Abstract: This series of forms are used to collect information needed to process an individual's claim for non-receipt of proceeds from a U.S. Treasury check or electronic benefit payments. Once the information is analyzed, a determination is made and a recommendation is submitted to the program agency to either settle or deny the claim.

Affected Public: Individuals or households.

Estimated Annual Burden Hours: 8,609.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–01280 Filed 1–23–15; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Federal Advisory Committee on Insurance

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the Department of the Treasury's Federal Advisory Committee on Insurance will convene a meeting on Tuesday, February 10, 2015, in the Cash Room, 1500 Pennsylvania Avenue NW., Washington, DC 20220, from 1–5 p.m. Eastern Time. The meeting is open to the public, and the site is accessible to individuals with disabilities.

DATES: The meeting will be held on Tuesday, February 10, 2015, from 1–5 p.m. Eastern Time.

ADDRESSES: The Federal Advisory Committee on Insurance meeting will be held in the Cash Room, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The meeting will be open to the public. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must contact the Federal Insurance Office (Office), at (202) 622–5892, by 5 p.m. Eastern Time on Friday, February 6, 2015, to inform the Office that they would like to attend the meeting and to provide building clearance information.

FOR FURTHER INFORMATION CONTACT: Brett D. Hewitt, Policy Advisor to the Federal Insurance Office, Room 1410, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, at (202) 622–5892 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. II, 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the Federal Advisory Committee on Insurance are invited to submit written statements by any of the following methods:

Electronic Statements

• Send electronic comments to *faci@treasury.gov.*

Paper Statements

• Send paper statements in triplicate to the Federal Advisory Committee on Insurance, Room 1410, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

In general, the Department of the Treasury will post all statements on its Web site *http://www.treasury.gov/about/organizational-structure/offices/Pages/Federal-Insurance.aspx* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–0990. All statements, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: This is a periodic meeting of the Federal Advisory Committee on Insurance. In this meeting, the Federal Advisory Committee on Insurance will discuss retirement security, the Terrorism Risk Insurance Program, and the evolving insurance issues related to ride-sharing companies. The Committee will also receive updates from three subcommittees.

Michael T. McRaith,

Director, Federal Insurance Office.

[FR Doc. 2015–01272 Filed 1–23–15; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Capital Distribution

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

Under the PRA, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice.

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, ''Capital Distribution.''

DATES: Comments must be received by March 27, 2015.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory

Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0310, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Mary H. Gottlieb, OCC Clearance Officer, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is requesting renewal of OMB's approval of the following information collection.

Title of Collection: Capital Distribution.

OMB Control Number: 1557–0310.

Form Number: 1583.

Description: Under the OCC's rules governing capital distributions at 12 CFR part 163, subpart E, a Federal savings association (FSA) must file a capital distribution application with the OCC if: (1) It is not eligible for expedited treatment under 12 CFR 116.5; (2) the total amount of the its capital distributions (including the proposed capital distribution) for the applicable calendar year exceeds its net income for that year to date, plus retained net income for the preceding two years; (3) it would not be at least adequately capitalized, as set forth in 12 CFR 6.4, after the capital distribution; or (4) the proposed capital distribution would violate any applicable statute, regulation, or agreement with the OCC or the OTS, or violate a condition imposed on it in connection with an application or notice approved by the OCC or the OTS. 12 CFR 163.143(a).

If an FSA is not required to file a capital distribution application, it may be required to file a capital distribution notice with the OCC if: (1) It would not be well capitalized following the capital distribution as set forth in 12 CFR 165.4(b)(1); (2) the proposed capital distribution would reduce the amount of or retire any part of its common or preferred stock, or retire any part of debt instruments (such as notes or debentures) included in capital under 12 CFR part 3 or part 167, as applicable, (other than regular payments required under a debt instrument approved under 12 CFR 163.81); or (3) it is a subsidiary of a savings and loan holding company. 12 CFR 163.143(b).

If neither an FSA nor its proposed capital distribution meet the criteria described above, the FSA is not required to file an application or notice with the OCC. 12 CFR 163.143(c). However, if the FSA is required to file a notice with the Board of Governors of the Federal Reserve System (FRB) involving a cash dividend pursuant to 12 U.S.C. 1467a(f), it is required to provide an informational copy of the filing to the OCC under 12 CFR 163.143(d) at the same time the notice is filed with the FRB.

Type of Review: New collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 10.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 11 hours.

Comments are solicited on:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of the OCC;

b. The accuracy of OCC's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

e. Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

We will summarize the comments that we receive and include them in our request for OMB approval. All comments will become a matter of public record.

Dated: January 20, 2015.

Stuart E. Feldstein,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 2015–01355 Filed 1–23–15; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Requirements; Information Collection Renewal; Comment Request; Release of Non-Public Information

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, ''Release of Non-Public Information.''

DATES: You should submit written comments by March 27, 2015.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0200, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Mary H. Gottlieb, OCC Clearance Officer, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Release of Non-Public Information—12 CFR 4, Subpart C.

OMB Number: 1557–0200.

Form Number: None.

Abstract: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation.

The information requirements require individuals who are requesting non-public OCC information to provide the OCC with information regarding the legal grounds for the request. The release of non-public OCC information to a requester without sufficient legal grounds to obtain the information would inhibit open consultation between a bank and the OCC, thereby impairing the OCC's supervisory and regulatory mission. The OCC is entitled, under statute and case law, to require requesters to demonstrate that they have sufficient legal grounds for the OCC to release non-public OCC information. The OCC needs to identify the requester's legal grounds to determine if it should release the requested non-public OCC information.

The information requirements in 12 CFR part 4, subpart C, are as follows:

- 12 CFR 4.33: Request for non-public OCC records or testimony.
- 12 CFR 4.35(b)(3): Third parties requesting testimony.
- 12 CFR 4.37(a)(2): OCC former employee notifying OCC of subpoena.
- 12 CFR 4.37(a) and (b): Limitation on dissemination of released information.
- 12 CFR 4.38(a) and (b): Conditions on dissemination of released information.
- 12 CFR 4.39(d): Request for authenticated records or certificate of nonexistence of records.

The OCC uses the information to process requests for non-public OCC information and to determine if sufficient grounds exist for the OCC to release the requested information or provide testimony that would include a discussion of non-public information. This information collection facilitates the processing of requests and expedites the OCC's release of non-public information and testimony to the requester, as appropriate.

Type of Review: Extension, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit; individuals.

Number of Respondents: 83.

Frequency of Response: On occasion.

Total Annual Burden: 241 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 20, 2015.

Stuart E. Feldstein,

Director, Legislative & Regulatory Activities Division.

[FR Doc. 2015–01350 Filed 1–23–15; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL REGISTER

Vol. 80 Monday,

No. 16 January 26, 2015

Part II

Department of Energy

10 CFR Part 430

Energy Conservation Program: Energy Conservation Standards for General Service Fluorescent Lamps and Incandescent Reflector Lamps; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2011–BT–STD–0006]

RIN 1904–AC43

Energy Conservation Program: Energy Conservation Standards for General Service Fluorescent Lamps and Incandescent Reflector Lamps

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

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including general service fluorescent lamps (GSFLs) and incandescent reflector lamps (IRLs). EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this final rule, DOE is adopting more-stringent energy conservation standards for GSFLs. It has determined that the amended energy conservation standards for these products would result in significant conservation of energy, and are technologically feasible and economically justified. DOE concluded in this final rule that amending energy conservation standards for IRLs would not be economically justified.

DATES: *The effective date of this rule is March 27, 2015. Compliance with the amended* standards established for GSFLs and IRLs in this final rule is January 26, 2018.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. 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.

A link to the docket Web page can be found at: *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/24.* The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *General_Service_Fluorescent_Lamps@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

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I. Summary of the Final Rule and Its Benefits

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Pub. L. 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 GSFLs and IRLs, the subject of this final rule.

Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines 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)) In accordance with these and other statutory provisions discussed in this rule, DOE is adopting amended energy conservation standards for GSFLs. The amended standards, which are the minimum lumen output per watt of a lamp, are shown in Table I.1. These amended standards apply to all products listed in Table I.1, and manufactured in, or imported into, the United States on or after January 26, 2018. For IRLs, DOE considered an efficacy level (EL) as a means of increasing energy savings. However, based on the analyses presented in this final rule, DOE concluded that standards for IRLs are not economically justified and therefore, is not amending IRL standards. On July 14, 2009, DOE published a final rule in the **Federal Register**, which prescribed the current energy conservation standards for GSFLs and IRLs manufactured on or after July 14, 2012. 74 FR 34080.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS

[Compliance starting January 26, 2018]

Lamp type	Covered wattages *W*	Correlated color temperature *Kelvin*	Adopted level *lm/W* *	Percent increase over current standards
4-Foot Medium Bipin	≥25 W	≤4,500 K	92.4	3.8
		>4,500 K and ≤7,000 K	88.7	0.8

[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—ENERGY CONSERVATION STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS—Continued

[Compliance starting January 26, 2018]

Lamp type	Covered wattages *W*	Correlated color temperature *Kelvin*	Adopted level *lm/W* *	Percent increase over current standards
2-Foot U-Shaped	≥25 W	≤4,500 K	85.0	1.2
		>4,500 K and ≤7,000 K	83.3	2.8
8-Foot Slimline	≥49 W	≤4,500 K	97.0	0.0
		>4,500 K and ≤7,000 K	93.0	0.0
8-Foot Recessed Double Contact High Output	All	≤4,500 K	92.0	0.0
		>4,500 K and ≤7,000 K	88.0	0.0
4-Foot Miniature Bipin Standard Output	≥25 W	≤4,500 K	95.0	10.5
		>4,500 K and ≤7,000 K	89.3	10.2
4-Foot Miniature Bipin High Output	≥44 W	≤4,500 K	82.7	8.8
		>4,500 K and ≤7,000 K	76.9	6.8

* A "lumen" is a measurement of the radiometric energy emission from a light source weighted by the response function of a human eye, called the photopic spectral luminous efficiency function, V(λ). Test procedures for measuring lumens are also specified at 10 CFR part 430, subpart B, appendix R.

A. Benefits and Costs to Consumers

Table I.2 presents DOE's evaluation of the economic impacts of these standards on consumers of GSFLs, as measured by the average life-cycle cost (LCC) savings and the median payback period (PBP). The weighted-average LCC savings are positive for all product classes with amended standards.

TABLE I.2—IMPACTS OF ENERGY CONSERVATION STANDARDS ON CONSUMERS OF GENERAL SERVICE FLUORESCENT LAMPS

Product class	Weighted-average LCC savings *2013$*	Weighted-average mean payback period * *years*
4-foot medium bipin ≤4,500 K	5.98	3.1
4-foot T5 miniature bipin standard output ≤4,500 K	5.68	4.0
4-foot T5 miniature bipin high output ≤4,500 K	4.74	2.8
8-foot single pin slimline ≤4,500 K	**0.00	**0.0
8-foot recessed double contact HO ≤4,500 K	**0.00	**0.0

* Does not include weighting for "NER" Scenarios. "NER" indicates standard levels that do not reduce operating costs, which prevents the consumer from recovering the increased purchase cost.
** Standards were not amended.

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2015 to 2047). Using a real discount rate of 9.2 percent, DOE estimates that the INPV for manufacturers of GSFLs is $1,551.6 million in 2013$. Under these standards, DOE expects that manufacturers may lose up to 21.3 percent of their INPV, which is approximately $330.0 million. Additionally, based on DOE's interviews with the manufacturers of GSFLs, DOE does not expect any plant closings or significant loss of employment.

C. National Benefits [3]

DOE's analyses indicate that these standards would save a significant amount of energy. The energy savings over the entire lifetime of GSFLs installed during the 30-year period that begins in the year of compliance with amended standards (2018–2047), in comparison to the base case without amended standards, amount to 2.5 quadrillion Btu (quads) [4] for GSFLs. This represents a savings of 7.1 percent relative to the energy use of this product in the base case without amended standards. No savings are realized for IRLs, as DOE is not amending the standards for IRLs.

The cumulative net present value (NPV) of total consumer costs and savings of these standards for GSFLs ranges from $2.0 billion (at a 7-percent discount rate) to $5.5 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 products purchased in 2018–2047.

In addition, these standards for GSFLs would have significant environmental benefits. The energy savings from the 30-year product purchase period with these standards, relative to the base case without amended standards, would result in cumulative greenhouse gas emission reductions of approximately 160 million metric tons (Mt) [5] of carbon dioxide (CO_2), 650 thousand tons of methane, 140 thousand tons of sulfur dioxide (SO_2), 230 thousand tons of nitrogen oxides (NO_X), 2.0 thousand tons of nitrous oxide (N_2O), and 0.43 tons of mercury (Hg).[6] The cumulative reduction in CO_2 emissions through 2030 amounts to 90 Mt, which is

[3] All monetary values in this section are expressed in 2013 dollars and are discounted to 2014.

[4] A quad is equal to 10^{15} British thermal units (Btu).

[5] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

[6] DOE calculated emissions reductions relative to the Annual Energy Outlook (AEO) 2014 Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of October 31, 2013.

equivalent to the emissions associated with annual electricity use of approximately 12 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 recent Federal interagency process.[7] The derivation of the SCC values is discussed in section VI.M.1. Using discount rates appropriate for each set of SCC values, DOE estimates that the net present monetary value of the CO_2 emissions reductions for GSFLs is between $1.36 billion and $17.6 billion, with a value of $5.72 billion using the central SCC case represented by $40.5/t in 2015.[8] DOE also estimates that the net present monetary value of the NO_X emissions reductions is $400 million at a 3-percent discount rate, and $240 million at a 7-percent discount rate.[9]

Table I.3 summarizes the national economic costs and benefits expected to result from these standards for GSFLs.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF AMENDED ENERGY CONSERVATION STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS *

Category	Present value Billion 2013$	Discount rate (%)
Benefits		
Operating Cost Savings	11.2	7
	18.9	3
CO_2 Reduction Monetized Value ($12.0/t case) **	1.3	5
CO_2 Reduction Monetized Value ($40.5/t case) **	5.72	3
CO_2 Reduction Monetized Value ($62.4/t case) **	8.92	2.5
CO_2 Reduction Monetized Value ($119/t case) **	17.6	3
NO_X Reduction Monetized Value (at $2,684/ton)	0.24	7
	0.40	3
Total Benefits †	17.1	7
	25.1	3
Costs		
Incremental Installed Costs ‡	9.17	7
	13.5	3
Including Emissions Reduction Monetized Value †	7.96	7
	11.6	3

* This table presents the costs and benefits associated with GSFLs shipped in 2018–2047. These results include impacts on consumers that 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.

† 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).

The benefits and costs of these 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 operating the product that meets the amended standard (consisting primarily of operating cost savings from using less energy, minus increases in product purchase prices and installation costs), which is another way of representing consumer NPV, and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[10]

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, 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 GSFLs shipped in 2018–2047. The SCC values, on the other hand, reflect the present value of all future climate-related impacts resulting from the emission of one metric ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of these standards for GSFLs are shown in Table I.4. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the SCC series that has a value of $40.5/t in 2015, the cost of the standards in this rule is $841 million per year in increased equipment costs, while the

[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. *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

[8] The values only include CO_2 emissions, not CO_2 equivalent emissions; other gases with global warming potential are not included.

[9] DOE is currently investigating valuation of avoided Hg and SO_2 emissions for future rule makings.

[10] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2014, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (*e.g.,* 2020 or 2030), and then discounted the present value from each year to 2014. The calculation uses discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions, for which DOE used case-specific discount rates. 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.

benefits are $1,030 million per year in reduced equipment operating costs, $310 million in CO_2 reductions, and $22.4 million in reduced NO_X emissions. In this case, the net benefit amounts to $516 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series that has a value of $40.5/t in 2015, the cost of the standards in this rule is $724 million per year in increased equipment costs, while the benefits are $1,020 million per year in reduced operating costs, $310 million in CO_2 reductions, and $21.6 million in reduced NO_X emissions. In this case, the net benefit amounts to $627 million per year.[11]

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF AMENDED ENERGY CONSERVATION STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS *

	Discount rate	*million 2013$/year*		
		Primary estimate	LowNet benefits estimate	HighNet benefits estimate
Benefits				
Consumer Operating Cost Savings	7%	1,030	1,010	1,050
	3%	1,020	1,000	1,050
CO_2 Reduction Monetized Value ($12.0/t case) **	5%	97.5	97.1	97.5
CO_2 Reduction Monetized Value ($40.5/t case) **	3%	310	308	310
CO_2 Reduction Monetized Value ($62.4/t case) **	2.5%	448	446	448
CO_2 Reduction Monetized Value ($119/t case) **	3%	950	946	950
NO_X Reduction Monetized Value (at $2,684/ton) **	7%	22.4	22.3	22.4
	3%	21.6	21.5	21.6
Total Benefits †	7% plus CO_2 range	1,150 to 2,000	1,130 to 1,980	1,170 to 2,030
	7%	1,360	1,340	1,390
	3% plus CO_2 range	1,140 to 2,000	1,120 to 1,970	1,170 to 2,030
	3%	1,360	1,330	1,390
Costs				
Consumer Incremental Product Costs	7%	841	882	841
	3%	724	763	724
Net Benefits				
Total †	7% plus CO_2 range	300 to 1,160	241 to 1,090	328 to 1,180
	7%	516	452	540
	3% plus CO_2 range	415 to 1,270	350 to 1,200	443 to 1,300
	3%	627	561	655

* This table presents the annualized costs and benefits associated with GSFLs shipped in 2018 – 2047. These results include benefits to consumers that 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 Benefits Estimate assumes the Reference case energy prices from *AEO 2014* and decreasing incremental product cost, due to price learning. The Low Benefits Estimate uses the Low Economic Growth energy prices from *AEO 2014* and constant real product prices. The High Benefits Estimate assumes the Low Economic Growth energy price estimates from *AEO 2014* and the same decreasing incremental product costs as in the Primary Benefits Estimate.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† 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.

D. Conclusion

Based on the analyses culminating in this final rule, DOE found that for GSFLs the benefits to the nation of the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the burdens (loss of INPV and LCC increases for some users of these products). DOE has concluded that the standards in this rule represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in significant conservation of energy.

II. Introduction

The following section briefly discusses the statutory authority underlying this rule, as well as some of the relevant historical background related to the establishment of existing standards for GSFLs and IRLs.

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances (collectively referred to as ''covered products''), which includes the types of GSFLs and IRLs that are the subject of this rulemaking. (42 U.S.C. 6292(a)(14))

[11] The annualized consumer operating cost savings, NO_X reduction monetized value, and consumer incremental product costs are higher with a 7-percent discount rate than with a 3-percent discount rate. This is in contrast to the present values in Table I.3. Under certain conditions, different present values may lead to similar annualized values when calculated with different discount rates. In this case, the combined effects of (a) projecting to 2018 the present values that DOE calculated in 2014, and (b) annualizing the projected values with 3 percent and 7 percent discount rates over the 30-year analysis period, lead to similar annualized values. For consumer incremental product costs, the effect is more pronounced because the time series covers only 30 years, instead of the longer period covered for operating cost savings and NO_X reduction monetized value.

EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(i)(1)), and directed DOE to conduct further rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(i)(3)–(5)) On July 14, 2009, DOE published a final rule in the **Federal Register**, which completed the first rulemaking cycle to amend energy conservation standards for GSFLs and IRLs (hereafter the ''2009 Lamps Rule''). 74 FR 34080. That rule adopted standards for additional GSFLs, amended the definition of ''colored fluorescent lamp'' and ''rated wattage,'' and also adopted test procedures applicable to the newly covered GSFLs. Information regarding the 2009 Lamps Rule can be found on regulations.gov, docket number EERE–2006–STD–0131 at *www.regulations.gov/#!docketDetail;D=EERE-2006-STD-0131*.

This rulemaking encompasses DOE's second cycle of review to determine whether the standards in effect for GSFLs and IRLs should be amended, including whether the standards should be applicable to additional GSFLs. (DOE notes that under 42 U.S.C. 6295(m), the agency must periodically review its already established energy conservation standards for a covered product. Under this requirement, the next review that DOE would need to conduct must occur no later than six years from the issuance of a final rule establishing or amending a standard for a covered product.)

Pursuant to EPCA, DOE's energy conservation program for covered products consists essentially of four parts: (1) Testing; (2) labeling; (3) 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. 6293) 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. *Id.* The DOE test procedures for GSFLs and IRLs currently appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix R.

DOE must follow specific statutory criteria for prescribing amended standards for covered products. As indicated above, any amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) 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 GSFLs and IRLs, if no test procedure has been established for the product, or (2) if DOE determines by rule that the amended standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether an amended 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 imposition of the standard;
3. The total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;
4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of 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 imposition of the standard;
6. The need for national energy and water conservation; and
7. Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. See 42 U.S.C. 6295(o)(2)(B)(iii).

Additionally, 42 U.S.C. 6295(q)(1) specifies requirements when promulgating a standard for a type or class of covered product that has two or more subcategories. DOE must specify a different standard level than that which applies generally to such type or class of products for any group of covered products that have 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 section 310(3) of the Energy Independence and Security Act

of 2007 (EISA 2007), any final rule for new or amended energy conservation standards promulgated after July 1, 2010, are required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into the 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 has determined that standby mode and off mode do not apply to GSFLs and IRLs and that their energy use is accounted for entirely in the active mode. Therefore, DOE is not addressing standby and off modes, and will only address active mode in this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order (E.O.) 13563, issued on January 18, 2011 (76 FR 3281, Jan. 21, 2011). E.O. 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). 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 (OIRA) has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this 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. Consistent with E.O. 13563, and the range of impacts analyzed in this rulemaking, the energy-efficiency standard adopted herein by DOE achieves maximum net benefits. For further discussion of how this rulemaking achieves maximum net benefits, see section VII.

B. Background

1. Current Standards

In the 2009 Lamps Rule, DOE prescribed the current energy conservation standards for GSFLs and IRLs manufactured on or after July 14, 2012 (hereafter the ''July 2012 standards''). 74 FR 34080. The current standards are set forth in Table II.1 and Table II.2.

TABLE II.1—JULY 2012 STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS

Lamp type	Correlated color temperature	Minimum average lamp efficacy *lm/W*
Four-Foot Medium Bipin	≤4,500K	89
	>4,500 K and ≤7,000 K	88
Two-Foot U-Shaped	≤4,500 K	84
	>4,500 K and ≤7,000 K	81
Eight-Foot Slimline	≤4,500 K	97
	>4,500 K and ≤7,000 K	93
Eight-Foot High Output	≤4,500 K	92
	>4,500 K and ≤7,000 K	88
Four-Foot Miniature Bipin Standard Output	≤4,500 K	86
	>4,500 K and ≤7,000 K	81
Four-Foot Miniature Bipin High Output	≤4,500 K	76
	>4,500 K and ≤7,000 K	72

TABLE II.2—JULY 2012 STANDARDS FOR INCANDESCENT REFLECTOR LAMPS

Rated lamp wattage	Lamp spectrum	Lamp diameter *inches*	Rated voltage	Minimum average lamp efficacy *lm/W*
40–205	Standard Spectrum	>2.5	≥125 V	$6.8*P^{0.27}$
			<125 V	$5.9*P^{0.27}$
		≤2.5	≥125 V	$5.7*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
40–205	Modified Spectrum	>2.5	[12] ≥125 V	$5.8*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
		≤2.5	≥125 V	$4.9*P^{0.27}$
			<125 V	$4.2*P^{0.27}$

Note 1: P is equal to the rated lamp wattage, in watts.
Note 2: Standard Spectrum means any incandescent reflector lamp that does not meet the definition of modified spectrum in 430.2.

2. Corrections to Codified Standards

In this final rule, DOE is correcting errors in the codified standards for GSFLs and IRLs. In particular, DOE is correcting the typographical errors in the sections of the CFR that lay out the GSFL standards specified in EPCA and the IRL standards established by the 2009 Lamps Rule. Specifically, for the GSFL standards codified at 10 CFR 430.32(n)(1), the ''less than or equal to 35 W'' associated with the 8-foot single pin (SP) slimline lamp type should instead be associated with the 2-foot U-shaped lamp type. For 8-foot SP slimline product class with a minimum color rendering index (CRI) of 45 and a minimum average lamp efficacy of 80.0 lumens per watt (lm/W), the rated wattage should be less than or equal to 65 W, not greater than 65 W. The revised table will read as follows:

TABLE II.3—GSFL STANDARDS PRESCRIBED BY EPACT

Lamp type	Nominal lamp wattage	Minimum CRI	Minimum average lamp efficacy *lm/W*	Effective date
4-foot medium bipin	>35 W	69	75.0	Nov. 1, 1995.
	≤35 W	45	75.0	Nov. 1, 1995.
2-foot U-shaped	>35 W	69	68.0	Nov. 1, 1995.
	≤35 W	45	64.0	Nov. 1, 1995.
8-foot slimline	>65 W	69	80.0	May 1, 1994.
	≤65 W	45	80.0	May 1, 1994.
8-foot high output	>100 W	69	80.0	May 1, 1994.
	≤100 W	45	80.0	May 1, 1994.

For the IRL standards adopted by the 2009 Lamps Rule that are codified in 10 CFR 430.32(n)(5), the minimum lamp efficacy of $5.8P^{0.27}$ is for lamps with a rated wattage of 40–205 W, modified spectrum, diameter greater than 2.5 inches, and rated voltage of ''greater than or equal to 125 V'' rather than ''less than or equal to 125 V.'' The revised table will read as follows:

TABLE II.4—IRL STANDARDS ADOPTED BY THE 2009 LAMPS RULE

Rated lamp wattage	Lamp spectrum	Lamp diameter *inches*	Rated voltage	Minimum average lamp efficacy *lm/W*
40–205	Standard Spectrum	>2.5	≥125 V	$6.8*P^{0.27}$
			<125 V	$5.9*P^{0.27}$
		≤2.5	≥125 V	$5.7*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
40–205	Modified Spectrum	>2.5	≥125 V	$5.8*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
		≤2.5	≥125 V	$4.9*P^{0.27}$
			<125 V	$4.2*P^{0.27}$

3. History of Standards Rulemaking for General Service Fluorescent Lamps and Incandescent Reflector Lamps

As mentioned in the previous section, EPCA, as amended, established energy conservation standards for certain classes of GSFLs and IRLs, and required DOE to conduct two rulemaking cycles to determine whether these standards should be amended. (42 U.S.C. 6295(i)(1) and (3)–(4)) EPCA also authorized DOE to adopt standards for additional GSFLs if such standards were warranted. (42 U.S.C. 6295(i)(5))

DOE completed the first cycle of amendments by publishing a final rule in the **Federal Register** in July 2009. 74 FR 34080 (July 14, 2009). The 2009 Lamps Rule amended existing GSFL and IRL energy conservation standards and adopted standards for additional GSFLs. That rule also amended the definition of ''colored fluorescent lamp'' and ''rated wattage,'' and adopted test procedures applicable to the newly covered GSFLs.

The Energy Policy Act of 1992 (EPAct 1992, Pub. L. 102–486) amendments to EPCA added as covered products IRLs with wattages of 40 watts (W) or higher. In defining the term ''incandescent reflector lamp,'' EPAct 1992 excluded lamps with elliptical reflector (ER) and bulged reflector (BR) bulb shapes, and with diameters of 2.75 inches or less. Therefore, such IRLs were neither included as covered products nor subject to EPCA's standards for IRLs.

Section 322(a)(1) of the EISA 2007 subsequently amended EPCA to expand the Act's definition of ''incandescent reflector lamp'' to include lamps with a diameter between 2.25 and 2.75 inches, as well as lamps with ER, BR, bulged parabolic aluminized reflector (BPAR), or similar bulb shapes. (42 U.S.C. 6291(30)(C)(ii) and (F)) Section 322(b) of EISA 2007, in amending EPCA to set forth revised standards for IRLs in new section 325(i)(1)(C), exempted from these standards the following categories of IRLs: (1) Lamps rated 50 W or less that are ER30, BR30, BR40, or ER40; (2) lamps rated 65 W that are BR30, BR40, or ER40 lamps; and (3) R20 IRLs rated 45 W or less. (42 U.S.C. 6295(i)(C)) DOE refers to these three categories of lamps collectively as certain R, ER, and BR IRLs.

DOE has concluded, for the reasons that follow, that it has the authority under EPCA to adopt standards for these

[12] Shown correctly in this table; erroneously written as ''≤125V'' in the CFR.

R, ER, and BR IRLs, and that these lamps are covered by the directive in 42 U.S.C. 6295(i)(3) to amend EPCA's standards for IRLs. First, by amending the definition of ''incandescent reflector lamp'' (42 U.S.C. 6291(30)(C)(ii) and (F)), EISA 2007 effectively brought these R, ER, and BR IRLs into the federal energy conservation standards program as covered products, thereby subjecting them to DOE's regulatory authority. Second, although 42 U.S.C 6295(i)(1)(C) exempts these R, ER, and BR IRLs from the standards specified in 42 U.S.C. 6295(i)(1)(B), EPCA directs that DOE amend the standards laid out in 42 U.S.C 6295(i)(1), which includes subparagraph (C). As a result, the statutory text exempted these bulbs only from the standards specified in 42 U.S.C. 6295(i)(1), not from future regulation. Consequently, DOE began considering energy conservation standards for these R, ER, and BR IRLs. DOE initiated a new rulemaking for these products by completing a framework document and publishing a notice announcing its availability. 75 FR 23191 (May 3, 2010). DOE held a public meeting on May 26, 2010 to seek input from interested parties on its methodologies, assumptions, and data sources.

To initiate the second rulemaking cycle to consider amended energy conservation standards for GSFLs and IRLs (other than the certain R, ER, and BR IRLs discussed in the preceding paragraphs), on September 14, 2011, DOE published a notice announcing the availability of the framework document, ''Energy Conservation Standards Rulemaking Framework Document for General Service Fluorescent Lamps and Incandescent Reflector Lamps,'' and a public meeting to discuss the proposed analytical framework for the rulemaking. 76 FR 56678. DOE also posted the framework document on its Web site, in which DOE described the procedural and analytical approaches DOE anticipated using to evaluate the establishment of energy conservation standards for GSFLs and IRLs.

DOE held the public meeting for the framework document on October 4, 2011 [13] to present the framework document, describe the analyses it planned to conduct during the rulemaking, seek comments from stakeholders on these subjects, and inform stakeholders about and facilitate their involvement in the rulemaking. At the public meeting, and during the comment period, DOE received many comments that both addressed issues raised in the framework document and identified additional issues relevant to this rulemaking.

DOE issued the preliminary analysis for this rulemaking on February 20, 2013 and published it in the **Federal Register** on February 28, 2013. 78 FR 13563 (February 28, 2013). DOE posted the preliminary analysis, as well as the complete preliminary technical support document (TSD), on its Web site. The preliminary TSD included the results of the following preliminary analyses: (1) Market and technology assessment; (2) screening analysis; (3) engineering analysis; (4) energy-use characterization; (5) product price determinations; (6) LCC and PBP analyses; (7) shipments analysis; and (8) national impact analysis (NIA). In the preliminary analysis, DOE described and sought comment on the analytical framework, models, and tools (*e.g.,* LCC and national energy savings [NES] spreadsheets) DOE used to analyze the impacts of energy conservation standards for GSFLs and IRLs. DOE held a public meeting on April 9, 2013, to present the methodologies and results for the preliminary analyses. Manufacturers, trade associations, and environmental advocates attended the meeting. The participants discussed multiple issues, including the methodology and results of the market and technology assessment, screening analysis, engineering analysis, product price determination, energy use, LCC analysis, shipments analysis, and NIA.

In April 2014, DOE published a notice of proposed rulemaking (NOPR) in the **Federal Register** proposing new and amended energy conservation standards for GSFLs and IRLs. 79 FR 24068 (April 29, 2014). In conjunction with the NOPR, DOE also published on its Web site the complete TSD for the proposed rule.[14] The NOPR TSD included updated results of the analyses conducted in the preliminary analysis stage as well as the following additional analyses: 1) LCC subgroup analysis, 2) manufacturer impact analysis (MIA), 3) employment impact analysis, 4) utility impact analysis, 5) emissions analysis, 6) monetization of emission reduction benefits, and 7) regulatory impact analysis (RIA). The NOPR TSD was accompanied by the LCC spreadsheet, the NIA spreadsheet, and the MIA spreadsheet—all of which are available on regulations.gov.[15] In the NOPR DOE invited comment on these analyses and related issues. DOE held a NOPR public meeting on May 1, 2014, to hear oral comments on and solicit information relevant to the proposed rule (hereafter the NOPR public meeting). DOE considered the comments received in response to the NOPR after its publication and at the NOPR public meeting when developing this final rule, and responds to these comments in this rule.

4. Test Procedure

EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6293) Manufacturers of covered products must use these test procedures to certify to DOE that their product complies with EPCA energy conservation standards and to quantify the efficiency of their product. Similarly, DOE uses the test procedure to determine compliance with energy conservation standards. DOE's test procedures for fluorescent and incandescent reflector lamps are set forth in title 10 of the CFR, part 430, subpart B, appendix R. These test procedures provide instructions for measuring GSFL and IRL performance, largely by incorporating industry standards. The test procedures were updated in a final rule published in July 2009. 74 FR 31829 (July 6, 2009). The rule updated citations to industry standards and made several other modifications. DOE further amended the test procedures to update references to industry standards for GSFLs in a final rule published in January 2012. 77 FR 4203 (January 27, 2012).

a. Standby and Off Mode Energy Consumption

EPCA requires energy conservation standards adopted for a covered product after July 1, 2010 to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) EPCA defines active mode as the condition in which an energy-using piece of equipment is connected to a main power source, has been activated, and provides one or more main functions. (42 U.S.C. 6295)(gg)(1)(A)) Standby mode is defined as the condition in which an energy-using piece of equipment is connected to a main power source and offers one or more of the following user-oriented or protective functions: Facilitating the activation or

[13] DOE published a notice announcing the availability of the framework document, ''Energy Conservation Standards Rulemaking Framework Document for General Service Fluorescent Lamps and Incandescent Reflector Lamps,'' and a public meeting in the **Federal Register** on September 14, 2011. 76 FR 56678. The framework document and public meeting information are available at regulations.gov under docket number EERE–2011–BT–STD–0006.

[14] The NOPR TSD is available at regulations.gov under docket number EERE–2011–BT–STD–0006.

[15] Supporting spreadsheets for the NOPR TSD are available at regulations.gov under docket number EERE–2011–BT–STD–0006.

deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer; or providing continuous functions, including information or status displays (including clocks) or sensor-based functions. *Id.* Off mode is defined as the condition in which an energy-using piece of equipment is connected to a main power source, and is not providing any standby or active mode function. *Id.*

To satisfy the EPCA definitions of standby mode and off mode (42 U.S.C. 6295(gg)(1)), the lamp must not be providing any active mode function (*i.e.,* emitting light). However, to reach such a state, the lamp must be entirely disconnected from the main power source (*i.e.,* switched off), thereby not satisfying the requirements of operating in off mode or standby mode. Further, neither GSFLs nor IRLs covered under this rulemaking provide any secondary user-oriented or protection functions or continuous standby mode functions. Thus, these lamps do not satisfy the EPCA definition of standby mode. While EPCA allows DOE to amend the mode definitions (42 U.S.C. 6295(gg)(1)(B)), DOE believes that the energy use of GSFLs and IRLs is accounted for entirely in the active mode. Therefore, DOE is not addressing lamp operation in the standby and off modes in this rulemaking.

III. General Discussion

A. Product Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that 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 to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q)) For further details on the scope of coverage for this rulemaking, see section V. For further details on product classes, see section VI.C and chapter 3 of the final rule TSD.

B. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(i).

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(ii)–(iv). Section VI.B of this notice discusses the results of the screening analysis for GSFLs and IRLs, particularly the designs DOE considered, those it screened out, and those that are the basis for the trial standard levels (TSLs) in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the final rule TSD.

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficacy for GSFLs and IRLs, using the design parameters for the most efficient products available on the market or in working prototypes. (See chapter 5 of the final rule TSD.) The max-tech levels that DOE determined for this rulemaking are described in section VI.D.2.f and VI.D.3.d, respectively for GSFLs and IRLs, of this final rule.

C. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with amended standards (2018–2047).[16] The savings are measured over the entire lifetime of products purchased in the 30-year analysis period.[17] DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. The base case represents a projection of energy consumption in the absence of amended mandatory efficiency standards and the standards case represents a projection of energy consumption if amended standards take effect. As described in section VI.I of this notice, the projections start from the current efficiency distribution on the market and consider various market forces, in addition to amended standards, that may affect future demand for more efficient products.

DOE used its NIA spreadsheet model to estimate energy savings from amended standards for the products that are the subject of this rulemaking. The NIA spreadsheet model (described in section VI.J 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 reports national energy savings in terms of the savings in the energy that is used to generate and transmit the site electricity. For electricity and natural gas and oil, DOE also calculates full-fuel-cycle (FFC) energy savings. As discussed in DOE's statement of policy and notice of policy amendment, the FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy-efficiency standards. 76 FR 51281 (August 18, 2011), as amended at 77 FR 49701 (August 17, 2012).

To calculate this quantity, DOE derives annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) most recent Annual Energy Outlook (AEO). For FFC energy savings, DOE's approach is based on the calculation of an FFC multiplier for the electricity used by covered products or equipment. For more information, see section VI.L.

[16] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

[17] 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.

2. Significance of Savings

To adopt standards for a covered product, DOE must determine that such action would result in ''significant'' energy savings. 42 U.S.C. 6295(o)(3)(B). Although the term ''significant'' is not defined in the Act, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended ''significant'' energy savings in the context of EPCA to be savings that were not ''genuinely trivial.'' The energy savings for these adopted standards of 2.5 quads over a 30-year product purchase period (presented in section VII.B.3) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

D. 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 amended standard on manufacturers, DOE conducts a MIA, as discussed in section VI.K. 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 INPV, which values the industry based on expected future cash flows; cash flows by year; changes in revenue and income; and other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and payback period (PBP) associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the economic impacts applicable to a particular rulemaking. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared to Increase in Price

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of the covered product that are likely to result from the imposition of the 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. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with amended standards.

The LCC savings and the PBP for the considered efficacy levels are calculated relative to the baseline. DOE's LCC and PBP analysis is discussed in further detail in section VI.G.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section VI.J, DOE uses the NIA spreadsheet to project national site energy savings.

d. Lessening of Utility or Performance of Products

In establishing classes of products, and in evaluating design options and the impact of potential standard levels, DOE evaluates 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 adopted in this rule would not reduce the utility or performance of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a proposed standard. (42 U.S.C. 6295(o)(2)(B)(i)(V) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a 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 transmitted a copy of its proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOJ's response, that the proposed energy conservation standards are unlikely to have a significant adverse impact on competition, is reprinted at the end of this notice.

f. Need for National Energy Conservation

In evaluating the need for national energy conservation, DOE expects that the energy savings from amended standards are likely to provide improvements to the security and reliability of the nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity.

The amended standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases primarily associated with fossil-fuel based energy production. DOE reports the emissions impacts from these standards, and from each TSL it considered, in section VII.B.6 of this notice. DOE also reports estimates of the economic value of emissions reductions resulting from the considered TSLs, as discussed in section VII.B.7.

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 amended 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 VII.B.1.a of this final rule.

IV. Issues Affecting Rulemaking Schedule

DOE received several comments on the rulemaking schedule. Appliance Standards Awareness Project (ASAP) and the Energy Efficiency Organizations (EEOs) supported the rulemaking schedule as presented in the NOPR. However, ASAP noted that DOE missed the legally required legislative deadline and urged DOE not to push the rulemaking any later than planned. (ASAP, Public Meeting Transcript, No. 49 at p. 29; [18] EEOs, No. 55 at p. 2)

Sofie E. Miller commented that the 2009 Lamps Rule required compliance on July 14, 2012 and for certain GSFL product classes, many manufacturers were granted a stay of enforcement, which is still in effect. Therefore, the full impact of the 2009 Lamps Rule on the lighting market is unknown. Further, Miller noted that manufacturers have expressed concern that the short period between the rulemakings will have a severe and negative impact on manufacturers, who may not be able to recover investments in new technologies or to develop products meeting even higher standards than those in the 2009 Lamps Rule. While DOE is statutorily required to make a determination about whether to update these standards, it may make the most sense for DOE to delay proposing new standards until the full effect of its previous standards is known, and DOE should initiate that process by conducting a retrospective review of the 2009 Lamps Rule. (Miller, No. 50 at p. 10)

DOE is conducting this rulemaking to satisfy the EPCA requirement for a second review of the GSFL and IRL standards that were finalized in the 2009 Lamps Rule and required compliance July 2012. DOE understands that Office of Hearing and Appeals (OHA) has granted 16 manufacturers 2-year waivers from standards for their 700 series T8 products that expire in 2014. Because standards from this rulemaking would become effective after these waivers granted to individual manfacturers have expired and the products granted waivers would be subject to standards, DOE has conducted its analysis assuming that the waivers will not be in place. Further, at the time of the analysis of the final rule, most of the waivers had expired and not been renewed.

Regarding this rulemaking assessing the full impact of the 2009 Lamps Rule, the analysis in this final rule was updated and finalized almost two years after the July 2012 standards required compliance, reflecting the most recent data available. DOE conducted a survey of product offerings for this final rule and identified a few new covered products since the NOPR analysis which were included in this final rule analysis. Therefore, DOE finds that the analysis in this final rule adequately assesses and captures the impacts of the July 2012 standards for these products and sees no reason to delay in adopting the appropriate standards resulting from it and requiring compliance three years after the publication of the final rule.

V. Issues Affecting Scope

A. Clarifications of General Service Fluorescent Lamp Definition

The scope of this rulemaking for GSFLs is defined by the terms ''fluorescent lamp'' and ''general service fluorescent lamp.'' 10 CFR 430.2 The definition of general service fluorescent lamp includes certain exemptions. DOE has received several questions on the application of these exemptions. Therefore, DOE evaluated each exemption and determined that the following exemption categories could be further clarified: ''impact-resistant fluorescent lamps,'' ''reflectorized or aperture lamps,'' ''fluorescent lamps designed for use in reprographic equipment,'' and ''lamps primarily designed to produce radiation in the ultraviolet region of the spectrum.'' For these exemption categories, the terminology was either not defined elsewhere or the application of the exemption could be further clarified. Using product literature and industry reference sources, DOE proposed clarifications of these exemptions in the NOPR. DOE did not receive any comments on the proposed clarifications. However, the National Electrical Manufacturers Association (NEMA) did state that they support all existing exemptions for fluorescent products. (NEMA, No. 54 at p. 11) DOE therefore is maintaining the clarifications to the exemption definitions.

Additionally, DOE proposed clarifications of the terms ''designed'' and ''marketed'' as applied to definitions of lighting products covered under DOE standards. These terms are generally used to ensure that exemptions from applicable standards apply only to lamps used in certain intended applications and/or functions. Therefore, DOE considered the terms ''designed,'' ''designated,'' ''designation,'' ''designated and marketed,'' and ''designed and marketed,'' for covered lighting products to mean that manufacturers explicitly state the intended application of the lamp in a publicly available document (*e.g.,* product literature, catalogs, packaging labels, and labels on the product itself). In the NOPR DOE had specified the lamp types to which the proposed definition should apply as follows: Fluorescent lamp ballasts; fluorescent lamps; general service fluorescent lamps; general service incandescent lamps; incandescent lamps; incandescent reflector lamps; medium base compact fluorescent lamps; and specialty application mercury vapor lamp ballasts. In this final rule, in addition to these lamp types, the definition will also apply to ''general service lamps'' which are also a lamp type covered by DOE.

The term ''designed and marketed'' is also used in the general service fluorescent lamp definition which specifies that all lamp types exempted must be ''designed and marketed'' for the nongeneral application they are

[18] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to develop energy conservation standards for GSFLs and IRLs (Docket No. EERE–2011–BT–STD–0006), which is maintained at *www.regulations.gov*. This notation indicates that the statement preceding the reference is document number 49 in the docket for the GSFL and IRL energy conservation standards rulemaking, and appears at page 29 of that document.

intended to serve. One of these exemptions is lamps with a CRI of 87 or greater (hereafter ''high CRI lamps'').

The California Investor Owned Utilities (CA IOUs) commented that the definition of ''designed and marketed'' should relate to the way products are represented in the marketplace and might be utilized. (CA IOUs, Public Meeting Transcript, No. 49 at p. 28) EEOs predicted that DOE's method of adding a definition of ''designed and marketed,'' as proposed in the NOPR, would do nothing to prevent or dissuade manufacturers from continuing to sell high CRI lamps as inexpensive, extremely inefficient alternatives to GSFLs subject to federal standards. (EEOs, No. 55 at pp. 2–4) EEOs and the National Energy Efficiency Partnership (NEEP) commented that the exemption for high CRI GSFLs is a loophole that is undercutting the current federal standards and, if not addressed, would undercut the standards ultimately adopted by this rulemaking. EEOs, NEEP, and Earthjustice reported that they have encountered numerous examples of high CRI lamps that are being marketed as suitable general service lamps. NEEP noted that the market responded to the 2009 Lamps Rule by increased offerings of high CRI T12 lamps. These products offer no energy savings and in the case of full-wattage 40 W lamps, actually increase energy usage. EEOs found that almost all of the 4ft T12 bipin GSFLs sold online were high CRI, costing as little as $1.50 per lamp when sold in multi-packs and having efficacy ratings as low as 54 lm/W. Compared to the 92.4 lm/W proposed in the NOPR for lamps at or below a correlated color temperature (CCT) of 4,500 K, EEOs calculated that a single high CRI 2600 lumen lamp, with an average rated life of 36,000 hours, could use 720 kWh more than a regulated lamp over the course of its life. (EEOs, No. 55 at pp. 2–4; NEEP, No. 57 at pp. 2–3; Earthjustice, Public Meeting Transcript, No. 49 at p. 27; Earthjustice, No. 52 at pp. 1–3)

ASAP commented that DOE consider what modifications to the high CRI definition could be made to address the use of high CRI lamps in general service applications. (ASAP, Public Meeting Transcript, No. 49 at pp. 28–29) Earthjustice also noted that a high CRI lamp marketed for general lighting applications but fails to meet federal minimum efficacy levels would be violating energy conservation standards and the marketing claims may constitute an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1). Earthjustice stated that DOE should work with the Federal Trade Commission to develop guidance on the appropriate marketing of high CRI fluorescent lamps. Earthjustice suggested that DOE should also investigate whether high CRI lamps meet EPCA's thresholds for coverage and energy conservation standards. (Earthjustice, No. 52 at pp. 3–4)

The definition of ''designed and marketed'' adopted in this rule refers to how the lamp is represented in the market and should be utilized by consumers. DOE believes that within the scope of this rulemaking it is implementing the appropriate changes in the CFR to clarify the exemption of high CRI products. It is not within the scope of DOE's authority in this rulemaking to modify the thresholds set by the current CRI exemptions for GSFLs.

Earthjustice commented the proposed definition of ''designed and marketed'' states that the intended application must be specified in a public document rather than all public documents. Earthjustice noted this as a problem specifically for high CRI lamps as it would allow manufacturers to explain the high CRI application in one document while still marketing the product as for general lighting applications in other documents. Earthjustice suggested, and EEOs concurred, that DOE should revise the definition of ''designed and marketed'' to provide that ''the intended application of the lamp is clearly and conspicuously stated in all publicly available documents (*e.g.,* product literature, catalogs, packaging labels, and labels on the product itself).'' (Earthjustice, No. 52 at pp. 3–4; EEOs, No. 55 at pp. 2–4)

DOE agrees that the definition proposed in the NOPR for ''designed and marketed'' can be strengthened and therefore, in this final rule will add the word ''clearly,'' and specify ''all publicly available documents'' so it reads ''means that the intended application of the lamp is clearly stated in all publicly available documents (*e.g.,* product literature, catalogs, and packaging labels).'' DOE believes that it is important that all public disclsures be consistent about the intended use or application of the lamp. In addition, DOE notes that the Federal Trade Commision prescribes certain energy-related labels for lighting products, such as general service fluorescent lamps and DOE will also consider those labels along with any other voluntary marking the manufacturers currently put on their lamps when determining whether a particular lamp is ''designed'' and ''marketed'' for a specific application. DOE reiterates that it is not adopting any new labeling requirements for lamps covered by this rulemaking.

B. General Service Fluorescent Lamp Scope of Coverage

1. Additional General Service Fluorescent Lamp Types

In this rulemaking, DOE evaluated energy-efficiency standards for additional GSFLs beyond those for which standards have already been established. (42 U.S.C. 6295(i)(5)) Any additional GSFLs considered for coverage under standards must meet the definition of a fluorescent lamp in 42 U.S.C. 6291(30)(A); satisfy the majority of fluorescent lighting applications; not be within the exclusions specified in 42 U.S.C. 6291(30)(B); and not already be subject to energy conservation standards. 73 FR 13620, 13629 (March 13, 2008). For each additional GSFL that meets these criteria, DOE then assessed whether standards could result in significant energy savings and are technologically feasible and economically justified. Standards for any applicable additional GSFLs are adopted based on the same criteria used to set new or amended standards for products pursuant to 42 U.S.C. 6295(o).

Using these criteria, DOE evaluated whether the following GSFL types warranted coverage under standards: 1) pin base compact fluorescent lamps (CFLs); 2) non-linear fluorescent lamps (*e.g.,* circline); and 3) fluorescent lamps with alternate lengths (*e.g.,* 2-, 3-, and 5-foot lamps).

For pin base CFLs, DOE determined that these lamp types fall within the definition of ''general service lamps,'' which excludes GSFLs. (42 U.S.C. 6291(30)(BB)) Therefore, these lamp types cannot be considered under this rulemaking. DOE is evaluating these lamp types in the rulemaking for general service lamps. Documents related to this rulemaking can be found on regulations.gov, docket number EERE–2013–BT–STD–0051.

For non-linear fluorescent lamps, DOE considered circline fluorescent lamps, the primary shape not currently covered under standards. Using the miscellaneous category of fluorescent lamps reported by the 2010 U.S. Lighting Market Characterization [19] (2010 LMC), DOE determined that the market share and energy consumption for these lamps was not substantive. The 2010 LMC's miscellaneous category composed 2.1 percent of lighting and

[19] U.S. Department of Energy. *2010 U.S. Lighting Market Characterization.* January 2012. Available at *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

consumed 4 terrawatt-hours (TWh) of electricity in 2010. Circline lamps are only a portion of the miscellaneous category, which also includes all fluorescents other than T5 linear and T8 and T12 linear and U-shaped lamps, as well as fluorescent lamps with unknown characteristics. Interviews with manufacturers also confirmed the low market share of these lamp types. Therefore, DOE concluded that coverage should not be expanded to non-linear fluorescent lamps as standards would not likely result in significant energy savings.

For linear lengths not already covered by standards, DOE focused on linear medium bipin (MBP) fluorescent lamps ranging from 1 to 6 feet, with the exception of the 4-foot MBP, which is already subject to standards. DOE's analysis showed that 5- and 6-foot lengths comprise a very low percentage of the linear MBP product offerings. For the T8 MBP lamps with lengths less than 4 feet, according to the 2010 LMC, these lamps comprised about 0.7 percent of the linear fluorescent lamp market and 0.2 percent of all installed lighting and consumed 1 TWh of electricity in 2010. Feedback from manufacturers also indicated a low market share for these lamp types.

NEMA supported DOE's decision not to include additional lamp types, such as 2-foot linear lamps, in the scope of the regulation agreeing that such lamps have low sales volume and low energy use. (NEMA, No. 54 at p. 11) ASAP stated it understood DOE's reasoning for not covering 2-foot linear fluorescent lamps based on the 2010 LMC. However, ASAP noted and CA IOUs concurred that 2-foot lamps is a growing market and that DOE should address this in the final rule. (ASAP, Public Meeting Transcript, No. 49 at pp. 19–20; CA IOUs, Public Meeting Transcript, No. 49 at p. 20)

EEOs and CA IOUs commented that DOE should include and set efficacy standards for 2-foot linear lamps as part of the rulemaking, finding DOE's assertion that linear fluorescent lamps shorter than 4 feet do not comprise a sufficiently large share of annual lamp sales and energy use to warrant coverage unconvincing. EEOs argued that DOE used outdated shipment data from the 2010 LMC, which was not specific to 2-foot linear GSFLs, to estimate sales and energy savings potential. EEOs and CA IOUS stated as this data was gathered prior to the effective date of the last round of GSFL standards it does not include the market impact from these standards. Further, EEOs and CA IOUs voiced concern over DOE's continued use of the 2010 LMC data instead of the newer shipment data from Vermont and California. CA IOUs noted that in Vermont study (*2011 Vermont Market Characterization and Assessment Study*[20]), 2-foot lamps were by far the most common lamp length behind 4-foot lamps, and more common than many of the other product classes currently being covered by standards. While EEOs recognized that this data only represents a small portion of the overall lighting market, EEOs stated that using the field survey is better than relying on unreliable and outdated information from the 2010 LMC. (EEOs, No. 55 at pp. 5–6; CA IOUs, No. 56 at p. 4)

DOE found using the 2010 LMC data to determine whether the 2-foot linear fluorescent lamps have a substantial market share and could result in significant energy savings is more accurate than relying on data from the Vermont study. The Vermont study is specific to a region and states that it was intended to develop the baseline data that characterizes the existing building and equipment stock in the Vermont business sector and covers the period of July 2011 to July 2012.[21] The study uses on-site surveys of 120 existing buildings for its primary data.[22] The 2010 LMC study captures all lighting installed in the U.S. in stationary applications during 2010.[23] The 2010 LMC groups linear fluorescent lamps by shape and length, and DOE used the T8 lamps with lengths less than 4 feet category to assess the 2-foot linear fluorescent market. Therefore, because this category includes more than just the 2-feet lengths, DOE's market estimates for the 2-foot linear fluorescent lamps are likely conservative. Further, the 2009 Lamps Rule became effective September 14, 2009 and required compliance July 14, 2012. Therefore, the Vermont study that was executed before compliance was required does not offer any added benefit.

CA IOUs noted that when using the 2010 LMC data, DOE excluded 2-foot T12 lamps from its total on the premise that the market will likely shift away from T12s due to strengthened ballast standards. CA IOUs agreed that the market will shift away from T12s, however, they predicted that all of these lamp sales would likely become 2-foot T8 sales. DOE therefore should have counted 2-foot T12 shipments towards the total 2-foot lamp estimates. (CA IOUs, No. 56 at p. 4)

DOE excluded T12 lamps from this analysis to reflect future market trends. The 2011 final rule amending energy conservation standards for fluorescent lamp ballasts (hereafter the ''2011 Ballast Rule''), which will require compliance on November 14, 2014, set standards difficult for T12 ballasts to meet.[24] 76 FR 70548 (Nov. 14, 2011). Due to these standards and because historical shipments of most T12 lamps have been decreasing steadily, a trend confirmed in manufacturer feedback from interviews, DOE determined the market will likely shift away from T12 lamps. However, even if there were a shift from 2-foot linear T12 to 2-foot linear T8 lamps it would not be significant, as the T12 lamps with lengths less than 4 feet comprise only 0.6 percent of the linear fluorescent market and 0.2 percent of all installed lighting.

EEOs reflected further on DOE's argument that 2-foot linear GSFLs are uncommon and not a large percentage of the lighting market. While EEOs agreed it is undoubtedly true that 2-foot linear GSFLs sell in much smaller volumes than 4-foot GSFLs, EEOs contended and CA IOUs agreed that regulating 2-foot linear GSFLs sales that are a small fraction of the volume of the 4-foot GSFLs lamps could still yield significant energy savings, especially as the baseline 2-foot linear lamps are extremely inefficient. Specifically, for 2-foot linear fluorescent lamps, EEOs found efficacies of 58 lm/W for T12 lamps, 77 lm/W for standard T8 lamps, and 88 lm/W for more efficient T8 lamps. By comparison, 2-foot U-shaped GSFLs which are subject to current standards have efficacies that range from 85 to 94 lm/W. (EEOs, No. 55 at pp. 5–6; CA IOUs, No. 56 at p. 4) EEOs noted that in interviews, manufacturers told DOE that 2-foot linear GSFLs are used in kitchens, bathrooms, vanity lighting, hospitality applications, cabinets, and to round out edges of ceilings in commercial spaces, and the Edison Electric Institute had noted that these lamps are used in task lighting. EEOs and CA IOUs additionally argued that many 2x2 fixtures are retrofitted to 2-foot linear lamps, replacing existing U-bend lamps. EEOs also cautioned that following the exemption of certain ER and BR IRLs from standards, the sales of

[20] Navigant Consulting, Inc. *2011 Vermont Market Characterization and Assessment Study*. October 2012. Available at *http://publicservice.vermont.gov/sites/psd/files/Topics/Energy_Efficiency/EVT_Performance_Eval/VT%20CI%20Existing%20Buildings%20Market%20Assessment%20and%20Characterization_2012-10-6_FINAL.pdf.*

[21] 2011 Vermont Study, 1.

[22] 2011 Vermont Study, 3.

[23] 2010 LMC Study, 2.

[24] The full text and all related documents of the 2011 Ballast Rule can be found on regulations.gov, docket number EERE–2007–BT–STD–0016 at *www.regulations.gov/#!docketDetail;D=EERE-2007-BT-STD-0016.*

ER, BR lamps increased. EEOs suggested that DOE may be making the same mistake by not covering 2-foot linear GSFLs. (EEOs, No. 55 at pp. 5–6)

In order to extend the scope to an additional lamp type, DOE must consider the potential energy savings that would result from regulating the lamp type under consideration. (42 U.S.C. 6295(o)) Based on its assessment of market share, trends, and product offerings, DOE does not find that significant energy savings will result from a standard for 2-foot linear fluorescent lamps.

DOE's review of 2-foot fluorescent lamp product offerings indicated that the majority of T8 products are offered in 17 W with minimal reduced wattage options and the T12 products are offered in 20 W. Therefore, any likely savings from standards would come from more efficacious T8 systems replacing T12 systems. However, as noted previously, the 2011 Ballast Rule enacts standards that will be difficult for T12 ballasts to meet and likely result in a shift away from T12 products.

As mentioned, using the relevant data in the 2010 LMC and observing the limited product offerings, DOE determined that the market share for 2-foot linear fluorescents is very low. Additionally, DOE compared the market share reported for the less than 4 feet T8 lamps in 2000 LMC compared to the 2010 LMC. From 2000 to 2010 the market of less than 4 feet T8 lamps declined from 1.5 to 0.7 percent of the linear fluorescent market and 0.5 to 0.2 percent of the entire lighting market. Further, the inventory of less than 4 feet T8 lamps declined by about 52 percent from 2000 to 2010 based on the LMC reports for those years. Therefore, DOE finds that the 2-foot linear lamps not only currently comprise a low market share but will likely not experience growth and therefore, will not result in significant energy savings.

Regarding a potential shift to the 2-foot linear lamps, while manufacturer feedback noted the applications in which 2-foot linear lamps can be utilized, it also indicated that the market share of the 2-foot linear fluorescent lamps was not likely to increase. Further, the noted applications such as cabinets or hospitality lighting indicate that this lamp type is used in specific spaces and therefore would likely have limited growth in market share.

Therefore, DOE maintains its conclusion not to include the 2-foot linear fluorescent lamp type in the scope of this rulemaking.

2. Additional General Service Fluorescent Lamp Wattages

DOE specifies a certain minimum wattage for lamp types included in the definition of ''fluorescent lamp.'' In this rulemaking, DOE also evaluates whether coverage should be extended to additional wattages of these lamp types. (42 U.S.C. 6295(i)(5)) As part of this assessment, DOE reviewed product offerings for covered lamp types to determine if any new, lower wattage products had been introduced since publication of the 2009 Lamps Rule. In the NOPR, DOE proposed extending coverage to the following reduced wattage lamps: 49 W, 50 W, 51 W 8-foot SP slimline, 25 W 4-foot T5 MiniBP standard output (SO), and 44 W, 47 W 4-foot T5 MiniBP HO lamps. 79 FR at 24085 (April 29, 2014) DOE currently covers 8-foot SP slimline lamps with wattages of 52 W or more; 4-foot T5 MiniBP SO lamps with wattages of 26 W or more; and 4-foot T5 MiniBP HO lamps with wattages of 49 W or more. These reduced wattage lamps are generally more efficacious than their full-wattage counterparts are and offer the potential for increased energy savings. DOE did not receive any comments regarding the proposed additional wattages for inclusion in GSFL scope in response to the NOPR.

Therefore, DOE is extending coverage to the following GSFLs in the final rule:

- 8-foot SP slimline lamps with wattages ≥ 49 W and < 52 W;
- 4-foot T5 MiniBP SO lamps with wattages ≥ 25 W and < 26 W; and
- 4-foot T5 MiniBP HO lamps with wattages ≥ 44 W and < 49 W.

C. Incandescent Reflector Lamp Scope of Coverage

1. Incandescent Reflector Lamp Types

In this rulemaking, DOE does not consider the following IRL types: (1) lamps rated 50 W or less that are ER30, BR30, BR40, or ER40; (2) lamps rated 65 W that are BR30, BR40, or ER40 lamps; and (3) R20 IRLs rated 45 W or less. (42 U.S.C. 6295(i)(C)) These IRLs referred to collectively as certain R, ER, and BR IRLs are the subject of a separate rulemaking on which further information can be found on regulations.gov under docket ID EERE–2010–BT–STD–0005 at *www.regulations.gov/#!docketDetail;D=EERE-2010-BT-STD-0005*. DOE has suspended activity on this rulemaking as a result of section 322 of Public Law (Pub. L.) 113–76 (January 17, 2014) (hereafter, ''Consolidated Appropriations Act, 2014''), which prohibits DOE from using appropriated funds to implement or enforce standards for ER, BR, and BPAR IRLs. DOE received several comments on the exclusion of the certain R, ER, BR lamps from this rulemaking and DOE's interpretation of the Consolidated Appropriations Act, 2014.

NEMA stated its support for all existing exemptions for IRL products and agreed with DOE's approach to address exempted BR lamps in a separate rulemaking when funding is available. (NEMA, No. 54 at p. 10–11) Earthjustice, however, commented DOE is obligated to include the certain R, ER, and BR IRLs in this rulemaking. Earthjustice remarked that DOE's determination that these IRLs are covered by the directive in 42 U.S.C. 6295(i)(3) to amend EPCA's standards should extend to 42 U.S.C. 6295(i)(4) under which this rulemaking is being concluded. Therefore, the exempt lamps should be a part of this rulemaking. (Earthjustice, No. 52 at p. 4) Earthjustice further commented that because the Consolidated Appropriations Act, 2014 is clearly inapplicable to R20 IRLs rated 45 W or less, DOE should adopt standards for those lamps. (Earthjustice, No. 52 at p. 5)

DOE is not including the certain R, ER, and BR IRLs in this rulemaking as it has commenced another rulemaking to address standards for these lamps. At the time DOE determined that it has the authority under EPCA to adopt standards for these R, ER, and BR IRLs, as they are covered by the directive in 42 U.S.C. 6295(i)(3), the first cycle of rulemaking to amend standards for IRLs per 42 U.S.C. 6295(i)(3) was already underway. Therefore, DOE initiated a separate rulemaking for the R, ER, and BR IRLs which included publishing a framework document and holding a public meeting, prior to the initiation of this rulemaking. Additionally, the Consolidated Appropriations Act, 2014 precludes DOE from engaging in a rulemaking involving certain ER, and BR IRLs. While DOE agrees that implementation or enforcement of standards for R IRLs are not prohibited by the Consolidated Appropriations Act, 2014, the R20 IRLs rated 45 W or less are already the subject of a separate rulemaking. Due to the progress of that rulemaking, DOE did not find it appropriate to remove the R20 IRLs rated 45 W or less from the scope of that rulemaking.

CA IOUs, NEEP, Earthjustice and EEOs noted that they do not agree with DOE's interpretation of the Consolidated Appropriations Act, 2014 and urged DOE to include all covered IRLs in this rulemaking, including the ER, BR, and BPAR lamps noted in the Act. (CA IOUs, No. 56 at p. 5; NEEP, No. 57 at

p. 1; EEOs, No. 55 at p.7; Earthjustice, No. 52 at p. 5) Earthjustice commented that nothing in the text of the Act prevents DOE from using appropriated funds to adopt standards that are different from those shown in the tables in section 325(i)(1)(B). Earthjustice stated that even if DOE believes that adopting standards stronger than those in the tables would implicitly also apply standard levels blocked by the Act (in that DOE would be applying standards to remove from the market lamps that Congress allegedly sought to protect), DOE could certainly adopt standards weaker than those applied in EPAct 1992. Such standards would still represent a significant improvement in efficacy, and under the current funding constraints, may represent the maximum improvement in energy efficiency that is feasible. (Earthjustice, No. 52 at p. 5)

EEOs stated that the Consolidated Appropriations Act, 2014 only prevents DOE from using funds to implement or enforce standards contained in the tables in section 325(i)(1)(B) and not from implementing or enforcing standards developed in response to a separate congressionally required rulemaking. (EEOs, No. 55 at p. 7) CA IOUs stated that EISA 2007 requires DOE to consider revising standards for these products. (CA IOUs, No. 56 at p. 5)

CA IOUs also noted that by omitting these products, the total savings potential from IRL standards is greatly minimized as standards for covered IRLs may result in more expensive, higher performing covered products and low cost, low efficacy unregulated products. CA IOUs and NEEP commented that these unregulated lamps would result in major loopholes as consumers could be incented to utilize less efficient IRLs, ultimately sacrificing significant energy savings to the country. (CA IOUs, No. 56 at p. 5; NEEP, No. 57 at p. 1) ASAP stated and was supported by CA IOUs that consumers currently have a choice between a very efficient light-emitting diode (LED), a very efficient incandescent covered lamp or a very inefficient 65 W BR or equivalent lamp. Therefore, addressing this loophole could lead to annual savings of half a billion dollars. (ASAP, Public Meeting Transcript, No. 49 at pp. 16–17)

The Consolidated Appropriations Act, 2014 prohibits expenditure of funds appropriated by that law to implement or enforce standards for BPAR, BR, and ER IRLs. Thus, DOE is not considering these specific lamps in this rulemaking.

2. Incandescent Reflector Wattages

In this rulemaking, DOE also did not consider IRLs with wattages lower than 40. EPCA defines an incandescent reflector lamp as a lamp that ''has a rated wattage that is 40 watts or higher.'' (42 U.S.C. 6291(30)(C), (C)(ii), and (F)) Additionally, while the definition of IRLs does not provide an upper wattage limit, DOE did not assess covered IRLs higher than 205 W in the NOPR. DOE research indicated that wattages greater than 205 W comprise a very small portion of the market and are typically designed for specialty uses, and therefore, do not represent significant energy savings. DOE did not receive any comments on this assessment in response to the NOPR and therefore, analyzes the same wattage range for IRLs in this final rule.

D. Summary of Scope of Coverage

In conclusion, in this rulemaking DOE is extending the scope of coverage for GSFLs to certain wattages including 8-foot SP slimline lamps with wattages ≥49 W and <52 W, 4-foot T5 MiniBP SO lamps with wattages ≥25 W and <26 W, and 4-foot T5 MiniBP HO lamps with wattages ≥44 W and <49 W but not to additional GSFL types. Further, DOE is clarifying certain exemptions noted under the definition of ''general service fluorescent lamp.'' DOE is not considering IRLs less than 40 W or greater than 205 W and is also not considering the following IRL types: (1) Lamps rated 50 W or less that are ER30, BR30, BR40, or ER40; (2) lamps rated 65 W that are BR30, BR40, or ER40 lamps; and (3) R20 IRLs rated 45 W or less. DOE is also adopting a definition for ''designed and marketed'' as it applies to all covered lighting products.

VI. Methodology and Discussion

In the NOPR phase of this rulemaking, DOE conducted the following analyses: a market and technology assessment, screening analysis, engineering analysis, product price determination, energy-use characterization, LCC and PBP analyses, an LCC subgroup analysis, shipments analysis and NIA, a complete MIA, a utility impact assessment, an employment impact assessment, an emissions analysis, a determination of monetization of reduced emissions from proposed standard levels, and an RIA. These analyses were then updated and revised as appropriate based on feedback received for this final rule.

DOE used four spreadsheet tools to estimate the impact of standards analyzed in the NOPR. The first tool (''Life-Cycle Cost [LCC] Analytical Tool'') calculates LCCs and payback periods of potential new energy conservation standards. The second tool (''National Impact Analysis [NIA] Analytical Tool'') is a spreadsheet that provides shipments forecasts and a framework that calculates national energy savings and net present value resulting from potential amended energy conservation standards. DOE assessed manufacturer impacts, largely through use of the ''Government Regulatory Impact Model (GRIM)'', the third tool. Additionally, DOE used output from the latest version of EIA's National Energy Modeling System (NEMS) for the emissions and utility impact analyses. 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* (*AEO),* a widely known energy forecast for the United States.

NEMA voiced concerns about the number of assumptions that DOE uses in the NOPR that are not being tested by retrospectively evaluating predictions made in the 2009 Lamps Rule in order to improve DOE's predictive analysis and to tune DOE's models. (NEMA, No. 54 at p. 17)

As needed, DOE makes assumptions based on the current relevant data and research available, feedback from manufacturer interviews, and stakeholder comments, information that is informed by the impacts of the 2009 Lamps Rule. Further, in the NOPR analysis and in this final rule analysis DOE has taken appropriate steps to ensure that its models provide the most accurate assessment of standards and their impacts. In the following sections, DOE discusses its methodology and responds to comments specific to each analysis. DOE further provides details regarding its analysis including assumptions in the final rule TSD.

A. Market and Technology Assessment

In the energy conservation standards rulemaking process, DOE conducts a market and technology assessment to provide an overall picture of the market for products concerned. Based primarily on publicly available information, the analysis provides both qualitative and quantitative information. The market and technology assessment includes the major manufacturers, product classes, retail market trends, shipments of covered products, regulatory and non-regulatory programs, and technologies that could be used to improve the efficacy of GSFLs and IRLs. DOE identified several technology options after conducting this assessment for the NOPR analysis. 79 FR at 24087–24090 (April 29, 2014). For further details on

the technology options and the screening process, see, respectively, chapters 3 and 4 of the NOPR TSD.

Osram Sylvania (OSI) commented that many of the GSFL and IRL technology options are already being used by manufacturers, so they should not be considered technology options. (OSI, Public Meeting Transcript, No. 49 at pp. 46–47) Based on DOE research, the technology options put forth in this rulemaking for GSFLs and IRLs all remain tools manufacturers can use to increase the efficacy of the lamp. Because lamps are present on the market at different efficacy levels, it is evident that not all the technology options are being used by all manufacturers and/or are not being used to their optimal performance. Therefore, with the exception of the IRL technology options of efficient filament orientation and efficient filament coiling, which are discussed in greater detail in section VI.A.2, DOE continues to consider the technology options put forth in the NOPR as means to improve the efficacy of GSFLs and IRLs.

1. General Service Fluorescent Lamp Technology Options

DOE received comments specific to the GSFL technology options put forth in the NOPR analysis. Specifically, DOE received a comment on highly emissive coatings, fill gas compositions, and higher efficiency phosphors.

a. Highly Emissive Coatings

DOE identified highly emissive coatings as a technology option to increase GSFL efficacy in the NOPR. When electrons are more easily emitted from the fluorescent lamp electrodes, a lower voltage is needed to maintain the arc. Therefore, any improvement in electrode coating that would allow electrons to be more easily removed from the electrodes would reduce the lamp power and increase the overall efficacy of the lamp. See chapter 3 of the final rule TSD for further details.

General Electric (GE) commented that highly emissive coatings are already being used to meet the current requirements of the 2009 Lamps Rule, so it is not logical to cite this as a technology options again. (GE, Public Meeting Transcript, No. 49 at pp. 48–49)

DOE found that there are various coatings and combinations that can be used to increase lamp efficacy. Conventional coatings include barium oxide (BrO), calcium oxide (CaO), and strontium oxide (SrO), sometimes paired with the addition of zirconium oxide (ZrO) which is used to extend lamp lifetime, and silicon carbide (SiC) which removes more electrons from the electrode. Because lamps are present on the market at more than one level of efficacy, and highly emissive electrode coating technology can be optimized in different variations, it provides a mechanism to improve the efficacy of less efficacious products (see chapter 3 of the final rule TSD for more information). Therefore, DOE retained highly emissive electrode coating as a technology option for this final rule.

b. Higher Efficiency Lamp Fill Gas Composition

DOE also identified higher efficiency lamp fill gas composition as a technology option to increase GSFL efficacy in the NOPR. Lamp fill gases in fluorescent lamps increase mobility of mercury ions and electrons, facilitating recombination and resulting in increased ultraviolet (UV) output and higher lamp efficacy. See chapter 3 of the final rule TSD for further details.

GE commented that higher efficiency gas fill composition is already being used to meet the current requirements of the 2009 Lamps Rule, so it is not logical to cite this as a technology option again. (GE, Public Meeting Transcript, No. 49 at pp. 48–49)

Based on feedback from manufacturers in interviews, there are different types and ratios of fill gases that can be used to improve lamp efficacy. Because lamps are present on the market at more than one level of efficacy, and fill gas compositions can be optimized in different combinations, they provide a mechanism to improve the efficacy of less efficacious products. Therefore, DOE retained higher efficiency fill gas composition as a technology option for this final rule.

c. Higher Efficiency Phosphors

DOE also identified higher efficiency phosphors as a technology option to increase GSFL efficacy in the NOPR. 79 FR at 24088 (April 29, 2014). Triband phosphors which contain rare earth elements are more efficient phosphors that allow a lamp to emit light at the wavelengths to which human eyes are most sensitive which increases lamp efficacy. This effect is impacted by the relationship between the efficiency losses in the phosphor's conversion of light, wavelengths sensitive to the human eye, and measurement of lamp efficacy. Generally, as thickness of the phosphor layer (also called phosphor weight) increases, lamp light output increases until it slightly decreases or stays flat. (See chapter 3 of the final rule TSD for further details).

NEMA stated that options to increase phosphor weight are essentially exhausted at the proposed efficacy level because it is near the peak of the coating weight/light output curve shown in figure 3.4.5 of chapter 3 of the NOPR TSD. (NEMA, No. 54 at pp. 22–23)

As noted, phosphor weight utilized in a lamp impacts the efficacy achieved. Because lamps are present on the market at more than one level of efficacy, varying weights of higher efficiency phosphor coatings is an option that can be utilized to improve the efficacy of less efficacious products. Therefore, DOE maintained higher efficiency phosphors as a technology option for this final rule.

d. Summary of GSFL Technology Options

In summary, in this final rule analysis, DOE identified technology options for GSFLs listed in Table VI.1.

TABLE VI.1—GSFL TECHNOLOGY OPTIONS IN THE FINAL RULE ANALYSIS

Name of technology option	Description
Highly Emissive Electrode Coatings	Improved electrode coatings allow electrons to be more easily removed from electrodes, reducing lamp power and increasing overall efficacy.
Higher Efficiency Lamp Fill Gas Composition	Fill gas compositions improve cathode thermionic emission or increase mobility of ions and electrons in the lamp plasma.
Higher Efficiency Phosphors	Phosphors increase the conversion of ultraviolet light into visible light.
Glass Coatings	Coatings on inside of bulb enable the phosphors to absorb more UV energy, so that they emit more visible light.
Higher Efficiency Lamp Diameter	Optimal lamp diameters improve lamp efficacy.
Multi-Photon Phosphors	Phosphors emit more than one visible photon for each incident UV photon.

2. Incandescent Reflector Lamp Technology Options

DOE received comments specific to the IRL technology options put forth by DOE in the NOPR. *Id.* at 24088–24090. Specifically, DOE received comments on thinner filaments, efficient filament coiling, efficient filament orientation, higher efficiency inert fill gases, higher pressure tungsten-halogen lamps, infrared glass coatings, efficient filament placement, and integrally ballasted low voltage lamps.

a. Thinner Filaments

In the NOPR analysis, DOE proposed thinner filaments as a technology option for increasing IRL efficacy. *Id.* at 24089. A thinner filament has an increased resistance and therefore an increased operating temperature, which increases the lamp efficacy. (See chapter 3 of the final rule TSD for further details.) NEMA commented that thinner filaments mean longer filaments, which reduce efficacy by defocusing the light source inside the reflector. (NEMA, No. 54 at p. 20)

DOE's research did not find any information indicating that the loss in efficacy due to the potentially defocused light with a longer filament outweighs the gain obtained by running a thinner filament at a higher temperature. Additionally, a longer filament would increase lumen output. DOE acknowledges that when utilizing a thinner filament as a technology option, other factors must be considered, such as the length of the filament required to implement the technology in its most optimal form. However, this does not preclude it as a technology option as use of it in the appropriate manner can increase IRL efficacy. Therefore, DOE maintained the use of thinner filaments as a technology option that can be manipulated to increase lamp efficacy for this final rule.

b. Efficient Filament Coiling

DOE proposed efficient filament coiling in the NOPR analysis as a technology option to increase lamp efficacy. *Id.* at 24089. Coiling of the incandescent lamp filament can increase luminous efficacy. The light output of an incandescent lamp is directly proportional to the light-emitting surface area of the light source. By coiling the filament, a longer filament can be used, increasing luminous output and therefore lamp efficacy. (See chapter 3 of the final rule TSD for further details.) NEMA stated that efficient filament coiling, which is necessary for efficient optics and beam patterns, is already common practice in the majority of halogen IRLs. Thus, no further efficacy increase is possible with this technology option. (NEMA, No. 54 at p. 20)

DOE research indicates that specifications of commercially available IRLs covered in this rulemaking state that the optimal coiling configuration, the CC (coiled coil) is being used. Therefore, DOE removed efficient filament coiling as a technology option that can be used to improve the efficacy of lamps on the market for this final rule.

c. Efficient Filament Orientation

DOE proposed efficient filament orientation in the NOPR analysis as a technology option to increase lamp efficacy. *Id.* Tungsten filaments in incandescent lamps can be positioned horizontally or vertically with respect to the base of the bulb. By positioning the filament in vertical alignment, only a small portion of the light is emitted towards the base, allowing more light to escape the bulb and be used for illumination, thereby increasing lamp efficacy. (See chapter 3 of the final rule TSD for further details.) NEMA commented that efficient filament orientation, which is necessary for efficient optics and beam patterns, is already common practice in the majority of halogen IRLs, noting that manufacturers already strive to accomplish this and thus, no further efficacy increase is possible with this technology option. (NEMA, No. 54 at p. 20)

DOE recognizes that filaments are placed in the vertical position which is optimal for commercially available IRLs covered in this rulemaking. Therefore, DOE removed efficient filament orientation as a technology option that can be used to improve the efficacy of lamps on the market for this final rule.

d. Higher Efficiency Inert Fill Gas

DOE proposed high-efficiency inert fill gas as another technology option to increase IRL efficacy in the NOPR analysis. *Id.* Fill gases such as krypton and xenon have low thermal conductivity that decreases the convective cooling of the filament, allowing for higher temperature operation and therefore higher efficacy. These gas molecules are larger relative to other gases, and can more effectively slow down the evaporation of tungsten and thereby extend the life of the lamp. Xenon, having even lower heat conductivity and larger mass than krypton, can more drastically change efficacy and life, but has a higher cost. Most lamps compliant with the July 2012 standards use xenon as a fill gas. (See chapter 3 of the final rule TSD for further details.) NEMA commented that higher efficiency inert fill gas is already common practice in the majority of halogen IRLs and therefore, no further efficacy increase is possible with this technology option. (NEMA, No. 54 at p. 20)

Based on feedback from manufacturer interviews, DOE confirmed that the majority of covered standards-compliant IRLs are utilizing xenon. However, DOE also learned that the amount of xenon used in a lamp can vary based on several factors. Because lamps are present on the market at more than one level of efficacy, higher efficiency inert fill gas is one option that can be utilized to improve the efficacy of less efficacious products. Therefore, DOE maintained high-efficiency inert fill gas as a technology option for this final rule.

e. Higher Pressure Tungsten-Halogen Lamps

DOE proposed the use of higher pressure tungsten-halogen as a technology option in the NOPR analysis. *Id.* Increasing the pressure of the halogen burner by increasing the density of halogen elements can indirectly raise the efficacy of the tungsten-halogen lamp. The increased density of halogen elements raises the probability that an evaporated tungsten element combines with a halogen element in a gaseous compound. Adding more of this gaseous compound in the burner effectively increases the amount of tungsten re-deposited on the tungsten filament. The lamp efficacy can be increased by using higher pressure to maintain the evaporation rate while increasing the filament temperature. (See chapter 3 of the final rule TSD for further details.) NEMA stated that the higher pressures in higher pressure tungsten-halogen lamps increase life but reduce efficacy due to the faster convective cooling of the filament. (NEMA, No. 54 at p. 21)

DOE understands that maintaining the filament temperature and increasing the pressure, thereby decreasing the evaporation rate of tungsten result in a gain in lifetime. However, a combination of higher pressure and increased temperature can be used to achieve both an increase in efficacy and lifetime. Therefore, DOE maintains high-efficiency inert fill gas as a technology option in this final rule.

f. Infrared Glass Coatings

DOE proposed infrared glass coatings as a technology option in the NOPR analysis. *Id.* at 24090. Infrared coatings on incandescent lamps are used to

reflect some of the radiant energy emitted back onto the filament. This infrared radiation then supplies heat to the filament and the operating temperature increases. An increase in operating temperature results in higher light output and therefore an increase in efficacy. (See chapter 3 of the final rule TSD for further details.) NEMA commented that infrared glass coatings on burners and reflectors have been in use since the mid-1980s and have been developed to the maximum technologically feasible level. More efficient coatings with 80 or more layers have been tested, but these coatings fail due to cracking under repeated thermal expansion and contraction. Therefore, no further efficacy increase is possible with this technology option. (NEMA, No. 54 at p. 21)

Based on feedback from manufacturer interviews, DOE determined that different IR coating formulas are used on different halogen burners. Because lamps are present on the market at more than one level of efficacy, and infrared glass coating technology can be optimized in different variations, it provides a mechanism to improve the efficacy of less efficacious products. Therefore, DOE maintained infrared glass coatings as a technology option for the final rule.

g. Efficient Filament Placement

Efficient filament placement was one of the technology options presented in the preliminary analysis (see chapter 3 of the preliminary analysis TSD), but DOE did not propose it in the NOPR phase. An optimally placed filament allows a portion of the spectrum emitted by the filament to focus back onto it. The additional heat provided to the filament increases the operating temperature and thereby increases lamp efficacy. In the NOPR phase, NEMA commented that manufacturers already use efficient filament placement and that no further efficacy gains due to this technology option are possible. (NEMA, No. 54 at p. 20)

DOE had received similar comments regarding efficient filament placement in the preliminary analysis. Based on these comments and further research as well as manufacturer interviews, DOE determined that the optimal filament placement design is theoretically well understood and is being applied in commercially available IRLs covered under the scope of this rulemaking. Therefore, DOE did not propose efficient filament placement as a technology option in the NOPR analysis and maintained this decision for the final rule.

h. Integrally Ballasted Low Voltage Lamps

DOE also presented integrally ballasted low voltage lamps as a technology option in the preliminary analysis but did not propose it in the NOPR phase. *79 FR* at 24089 (April 29, 2014) The use of an integral ballast in an incandescent lamp allows an increase in the efficacy because it converts the line voltage to lower lamp operating voltages, thereby reducing the lamp wattage. In the NOPR phase, NEMA commented that integrally ballasted low voltage lamps use electronics that are thermally limited to 30 W or less due to American National Standards Institute/International Electrotechnical Commission (ANSI/IEC) form constraints. Further, most IRLs are burned base-up. Therefore, this is not viable for higher power PAR lamps. (NEMA, No. 54 at p. 21)

DOE received similar comments in the preliminary analysis and reviewed feedback from manufacturer interviews and conducted further research regarding issues with this technology option. In interviews, manufacturers stated that the use of an integral ballast to lower voltage is not a feasible technology in higher wattage lamps due to issues with dissipating heat generated by the electronic components. Manufacturers indicated that heat dissipation becomes a problem at wattages ranging from 20 to 35 W. DOE research also indicated that in converting to a lower voltage, current is increased and greater heat is generated from the filament. In higher wattage IRLs, the resulting increased temperature can be damaging to the voltage conversion circuitry. Further, based on manufacturer interviews there are no covered IRLs that currently utilize this technology option. Because the lower limit of IRL wattages covered under standards is 40 W, DOE did not propose integrally ballasted low voltage lamps as a technology option in the NOPR analysis and maintained this decision for the final rule.

i. Summary of IRL Technology Options

In summary, in this final rule analysis, DOE identified technology options for IRLs listed in Table VI.2.

TABLE VI.2—IRL TECHNOLOGY OPTIONS IN THE FINAL RULE ANALYSIS

Name of technology option	Description
Higher Temperature Operation	Operating the filament at higher temperatures, the spectral output shifts to lower wavelengths, increasing its overlap with the eye sensitivity curve.
Microcavity Filaments	Texturing, surface perforations, microcavity holes with material fillings, increasing surface area and thereby light output.
Novel Filament Materials	More efficient filament alloys that have a high melting point, low vapor pressure, high strength, high ductility, or good radiating characteristics.
Thinner Filaments	Thinner filaments to increase operating temperature. This measure may shorten the operating life of the lamp.
Crystallite Filament Coatings	Layers of micron or submicron crystallites deposited on the filament surface that increases emissivity of the filament.
Higher Efficiency Inert Fill Gas	Filling lamps with alternative gases, such as Krypton, to reduce heat conduction.
Higher Pressure Tungsten-Halogen Lamps	Increased halogen bulb burner pressurization, allowing higher temperature operation.
Non-Tungsten-Halogen Regenerative Cycles	Novel filament materials that regenerate.
Infrared Glass Coatings	When used with a halogen burner, this is referred to as an HIR lamp. Infrared coatings on the inside of the bulb to reflect some of the radiant energy back onto the filament.
IR Phosphor Glass Coatings	Phosphor coatings that can absorb IR radiation and re-emit it at shorter wavelengths (visible region of light), increasing the lumen output.
UV Phosphor Glass Coatings	Phosphor coatings that convert UV radiation into longer wavelengths (visible region of light), increasing the lumen output.
Electron Stimulated Luminescence	A low voltage cathodoluminescent phosphor that emits green light (visible region of light) upon impingement by thermally ejected electrons, increasing the lumen output.
Higher Efficiency Reflector Coatings	Alternative reflector coatings such as silver, with higher reflectivity increase the amount of directed light.

TABLE VI.2—IRL TECHNOLOGY OPTIONS IN THE FINAL RULE ANALYSIS—Continued

Name of technology option	Description
Corner Reflectors	Individual corner reflectors in the cover glass that reflect light directly back in the direction from which it came.
High Reflectance Filament Supports	Filament supports that include a reflective face that reflects light to another filament, the reflective face of another filament support, or radially outward.
Permanent Infrared Reflector Coating Shroud	Permanent shroud with an IR reflector coating and a removable and replaceable lamp can increase efficiency while reducing manufacturing costs by allowing IR reflector coatings to be reused.
Higher Efficiency Burners	A double-ended burner that features a lead wire outside of the burner, where it does not interfere with the reflectance of energy from the burner wall back to the burner filament in HIR lamps.

B. Screening Analysis

After DOE identifies the technologies that improve the efficacy of GSFLs and IRLs, DOE conducts the screening analysis. The purpose of the screening analysis is to determine which options to consider further and which options to screen out. DOE consults with industry, technical experts, and other interested parties in developing a list of technology options. DOE then applies the following set of screening criteria to determine which options are unsuitable for further consideration in the rulemaking (10 CFR part 430, subpart C, appendix A at 4(a)(4) and 5(b)):

• *Technological Feasibility:* DOE will consider technologies incorporated in commercially available products or in working prototypes to be technologically feasible.

• *Practicability to Manufacture, Install, and Service:* If mass production of a technology and reliable installation and servicing of the technology could be achieved on the scale necessary to serve the relevant market at the time the standard comes into effect, then DOE will consider that technology practicable to manufacture, install, and service.

• *Adverse Impacts on Product Utility or Product Availability:* If DOE determines a technology to have significant adverse impact on the utility of the product to significant subgroups of consumers, or to 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 further consider this technology.

• *Adverse Impacts on Health or Safety:* If DOE determines that a technology will have significant adverse impacts on health or safety, it will not further consider this technology.

Those technology options not screened out by the above four criteria are called ''design options'' and are considered as possible methods of improving efficacy in the engineering analysis. DOE received several comments on technology options not screened out and retained as design options in the NOPR analysis for GSFLs and IRLs.

1. General Service Fluorescent Lamp Design Options

DOE received a general comment on the screening methodology as it relates to GSFLs. Philips commented that the screening analysis is not comprehensive enough because it is only looking at efficacy and does not consider other market requirements such as lifetime, dimmability, and CRI. (Philips, Public Meeting Transcript, No. 49 at p. 49)

One of the screening criteria is determining if a technology option would result in adverse impacts on the utility or availability of the product. DOE determined that of the design options considered for GSFLs, none would have a negative impact on the utility of the lamp (since lumen output is improved or maintained) nor would they eliminate the common lifetimes and CRI currently being offered. DOE acknowledges that krypton, a high-efficiency fill gas, seems to affect dimmability of reduced wattage lamps (*i.e.,* energy saver lamp model). Because of the issues related to dimming associated with reduced wattage lamps, DOE's analysis requires that full-wattage lamps, which do not experience these problems, meet any proposed level. Therefore, because the use of high-efficiency fill gas would only impact the dimmability of certain product options available at a standard level (*i.e.,* reduced wattage lamps), this design option is retained.

In summary, in this final rule analysis DOE identified as design options the following GSFL technologies that have met the screening criteria:

• Highly Emissive Electrode Coatings
• Higher Efficiency Lamp Fill Gas Composition
• Higher Efficiency Phosphors
• Glass Coatings
• Higher Efficiency Lamp Diameter

See chapter 4 of the final rule TSD for further details on the GSFL screening analysis.

2. Incandescent Reflector Lamp Design Options

DOE received feedback on several IRL design options put forth in the NOPR analysis, including higher temperature operation, thinner filaments, and higher efficiency reflector coatings.

a. Higher Temperature Operation

In the NOPR, DOE proposed higher temperature operation as a design option. 79 FR at 24091 (April 29, 2014). By operating the filament at higher temperatures, the spectral output shifts to shorter wavelengths, increasing its overlap with the photopic spectral eye sensitivity. This, in effect, increases the luminous output for a given power input and consequently increases the lamp efficacy. NEMA stated that higher temperature operation leads to a drastic and disproportionate loss in lifetime (*e.g.,* 6–7 percent efficacy gain results in about 50 percent reduction in lifetime). (NEMA, No. 54 at p. 20)

DOE understands that there may be a tradeoff between operation at higher temperature and a decrease in lifetime. However, DOE believes the use of higher temperature operation can be tuned to achieve a gain in efficacy while maintaining a reasonable lifetime. Therefore, DOE maintained higher temperature operation as a design option for this final rule.

b. Thinner Filaments

DOE proposed thinner filaments as a design option in the NOPR analysis. A thinner filament has an increased resistance and therefore an increased operating temperature, which increases the lamp efficacy. NEMA commented that thinner filaments lead to a drastic loss in lifetime. (NEMA, No. 54 at p. 20)

DOE is aware that an incandescent lamp with a thinner filament cannot withstand as much tungsten evaporation as a thicker filament before failing,

resulting in a shorter lifetime. However, a thinner filament design can be implemented to achieve a gain in efficacy while preserving a reasonable lifetime. Therefore, DOE maintained the use of thinner filaments as a design option for this final rule.

c. Higher Efficiency Reflector Coatings

DOE proposed higher efficiency reflector coatings with the exception of gold reflector coatings, as a design option in the NOPR analysis. 79 FR at 24091 (April 29, 2014). IRLs are incandescent lamps with a reflective coating, most commonly composed of aluminum or silver applied directly to the reflector surface. The reflector coating allows these lamps to place the same illuminance on a specific area with reduced watts, thereby increasing efficacy. (Note: In the NOPR and in this final rule, DOE screened out gold reflector coating due to impact on product utility as gold reflectivity diminishes at and below blue-green wavelengths, which may decrease the color quality of light. See chapter 4 of the final rule TSD for further details.)

NEMA stated that silver, the best higher efficiency reflector coating, is already in use and cannot be used in glue-sealed lamps (such as PAR20, PAR30, PAR30LN) due to extreme oxidation issues. (NEMA, No. 54 at p. 21)

DOE research indicates that it is possible to use silver reflector coatings with an epoxy (glue-based) seal. For example, DOE identified a patent that uses aluminum as an inner reflective coating extending from the rim to the base of the lamp and then a second coating consisting of silver spaced from the rim. The silver layer is heat-treated in an oven with a controlled environment prior to fusing the lens to the reflector body, which allows a seal to form without further diminishing the reflective characteristic of the silver.[25] Because there are methods to apply higher efficiency reflector coatings to all products covered by this rulemaking, DOE maintained the use of higher efficiency reflector coatings as a design option for this final rule.

d. Higher Pressure Tungsten-Halogen Lamps

DOE proposed the use of high pressure tungsten-halogen as a technology option in the NOPR analysis. 79 FR at 24091 (April 29, 2014). Increasing the pressure of the halogen burner by increasing the density of halogen elements can indirectly raise the efficacy of the tungsten-halogen lamp. NEMA stated that there are practical manufacturing process limitations and key consumer safety concerns with higher pressure tungsten-halogen lamps. (NEMA, No. 54 at p. 21)

DOE notes that this design option is being used in commercially available lamps. Further, DOE did not find information indicating any manufacturing or safety concerns with the use of higher pressure tungsten-halogen lamps. Therefore, DOE maintained the use of higher pressure tungsten-halogen lamps as a design option for this final rule.

In summary, in this final rule analysis DOE identified as design options the following IRL technologies that have met the screening criteria:

- Higher Temperature Operation
- Thinner Filaments
- Higher Efficiency Inert Fill Gas
- Higher Pressure Tungsten-Halogen Lamps
- Infrared Glass Coatings
- Higher Efficiency Reflector Coatings (with the exception of gold reflector coatings)
- Higher Efficiency Burners

See chapter 4 of the final rule TSD for further details on the IRL screening analysis.

C. Product Classes

DOE divides covered products into classes by: (a) the type of energy used; (b) the capacity of the product; or (c) other performance-related features that justify different standard levels, considering the consumer utility of the feature and other relevant factors. (42 U.S.C. 6295(q)) DOE received several comments regarding product classes proposed for GSFLs and IRLs in the NOPR analysis.

1. General Service Fluorescent Lamp Product Classes

In the NOPR analysis DOE considered product classes for GSFLs based on the following three factors: (1) Correlated color temperature; (2) physical constraints of lamps (*i.e.,* lamp shape and length); and (3) lumen package. 79 FR at 24091 (April 29, 2014). DOE received comments regarding establishing additional product classes based on the different spacing of 2-foot U-shaped lamps and lamp lifetime.

a. Two-Foot U-Shaped Lamps

DOE received several comments that separate product classes based on the spacing of the 2-foot U-shaped lamps may be needed. Spacing refers to the length between the two legs of the U-shaped lamp. The 2-foot U-shaped GSFLs come in 1⅝-inch spacing and 6-inch spacing. OSI commented that the 2-foot U-shaped lamps with 1⅝-inch spacing and 6-inch spacing should be in different product classes based on DOE's analysis in the NOPR. (OSI, Public Meeting Transcript, No. 49 at pp. 33–34) OSI stated that the reduced wattage 2-foot U-shaped lamps with 1⅝-inch spacing are typically used in retail applications and would be eliminated by the rulemaking, resulting in an increase in energy use. OSI added that full-wattage 6-inch lamps would be eliminated by the rulemaking, removing dimming utility. (OSI, Public Meeting Transcript, No. 49 at pp. 60–61) GE noted that this issue could partially be due to the scaling of the 2-foot U-shaped product class from the 4-foot MBP product class and could be an issue specific to the scaling factor or the 4-foot MBP product class efficacy levels. (GE, Public Meeting Transcript, No. 49 at p. 61) NEMA explained that consumers have switched to reduced wattage 1⅝-inch 2-foot U-shaped lamps, which serve retail applications and full-wattage 6-inch 2-foot U-shaped lamps are mainly used in offices for dimming purposes. (NEMA, No. 54 at p. 15)

EEOs recommended that DOE only create separate product classes for 6-inch and 1⅝-inch spacing of 2-foot U-shaped if a technical barrier impacting efficacy potential is identified. (EEOs, No. 55 at p. 6) CA IOUs commented that DOE should not create separate product classes for U-shaped lamps with different spacing. CA IOUs supported this statement by identifying commercially available full and reduced wattage U-shaped lamps with 6-inch spacing that would meet the proposed standard in the NOPR for these products. CA IOUs also noted that of the 2-foot U-shaped offerings with 1⅝-inch spacing, the majority of products were 31 W lamps, many of which met the standard level proposed in the NOPR analysis. Further, CA IOUs stated that there has to be a clear technical reason for design limitations for U-bend lamps of specific spacing to create separate product classes. They also noted that the 2-foot U-shaped lamps comprise a low market share that is shrinking as 2x2 fixtures are being converted to straight linear 2-foot lamps and therefore, manufacturers may not have developed an array of lamp offerings of varying efficacies. (CA IOU, No. 56 at p. 3)

DOE determines efficacy levels for 2-foot U-shaped lamps by reducing the efficacy levels of comparable 4-foot MBP lamps by an appropriate scaling

[25] Woodward, David R. and Walter A. Boyce, Jack R. Sheppard. *High efficiency sealed beam reflector lamp with reflective surface of heat treated silver.* U.S. Patent No. 5789847A, filed October 24, 1995, and issued August 4, 1998.

factor. DOE updated this scaling factor for the final rule analysis, see section VI.D.2.h for addition detail. In response to stakeholder comments, DOE reviewed the ability of 2-foot U-shaped lamps to comply with the highest efficacy level analyzed in this final rule, paying particular attention to the ability of both lamp spacings to comply. DOE determined that full wattage and reduced wattage versions of both lamp spacings are able to meet the highest efficacy level analyzed in the 2-foot U-shaped product class. Therefore, in this final rule, DOE did not establish separate product classes for the 1⅝-inch 2-foot U-shaped and 6-inch 2-foot U-shaped lamps.

b. Long-Life Lamps

DOE received comments that a separate product class for GSFLs with longer lifetimes than the standard lifetime may be needed. The longer life products are new on the market and mainly prevalent among the 4-foot MBP lamp types. NEMA commented that DOE should ensure that long-life lamps could meet the proposed standards or create a new product class for long-life lamps and report the associated analysis. (NEMA, No. 54 at p. 18) NEMA emphasized that the issue is that consumers are willing to pay a premium for long life (*e.g.,* 80,000 hour) fluorescent lamps to avoid frequent lamp replacement. NEMA added that for many consumers long-life LEDs might not be an option due to first cost. (NEMA, Public Meeting Transcript, No. 49 at pp. 72–73) NEMA stated that long-life products offer utility for areas that are difficult to relamp, such as areas over assembly lines, or bridges and tunnels. Further, NEMA contended that design changes that permit much longer lifetimes have a net reduction in lumens/watt. When lumens per watt are increased lifetime is reduced and that increases the frequency of replacement, which in turn increases labor costs for replacement, increases the use of rare earth oxides in manufacturing, and increases mercury release. (NEMA, No. 54 at pp. 13–14)

GE noted that more lamps would be required to support lifetimes that may be half as long as common lifetimes for fluorescent lamps and this would also increase waste and costs to the manufacturer. GE also noted that elimination of long-life GSFLs would not result in energy savings as fluorescent lamps consume a steady amount of power from initial to mean to end life. (GE, Public Meeting Transcript, No. 49 at pp. 68–69, 73–74) Regarding a question on the market share of long-life GSFLs, OSI responded that because these products have only been recently introduced in the market it is difficult to determine and NEMA noted that it would try to obtain this data for DOE. (OSI, Public Meeting Transcript, No. 49 at p. 74; NEMA, Public Meeting Transcript, No. 49 at pp. 75–76)

EEOs remarked that although industry members proposed a separate product class for extra-long-life GSFLs with lifetimes of around 80,000 hours, these products are new on the market and it is unclear if a technical barrier exists preventing these lamps from meeting proposed standards. EEOs added that CA IOUs provided examples of reduced wattage extra-long-life 4-foot MBP lamps that would meet proposed levels. Further, EEOs agreed that extra-long-life lamps are cost effective, however, the negative impacts of a proposed level on life could be captured in DOE's economic analysis. (EEOs, No. 55 at pp. 6–7) The Northwest Energy Efficiency Alliance (NEEA) stated that it had not observed consumer concern for lifetime, noting more sales of less efficacious, long-life products. NEEA also noted that it was not possible to have both an efficacious and a good long lifetime product and expected this rulemaking to address the lifetime in the life-cycle cost analysis of the product. (NEEA, Public Meeting Transcript, No. 49 at pp. 77–79)

CA IOUs commented that a separate product class might be warranted for extra-long-life GSFLs if DOE finds a technical justification for reduced efficacy among these products. CA IOUs identified a variety of commercially available reduced wattage extra-long-life products with catalog efficacies that would pass DOE's proposed standard for 4-foot MBP lamps. Noting that these were reduced wattage lamps, CA IOUs added that if DOE is not able to identify full-wattage extra-long-life lamps that meet the proposed standards, and stakeholders present a technical justification with respect to design limitations preventing such products from being developed, a separate product class might be appropriate for this product type. However, CA IOUs noted that a standard for such a product class should be sufficiently stringent to avoid becoming a loophole. (CA IOU, No. 56 at pp. 3–4)

In response to stakeholder comments, DOE reviewed information about long life GSFLs from manufacturer interviews, product catalogs, and DOE's certification database. Manufacturer interviews indicated that it may be possible to increase the lifetime of fluorescent lamps by increasing the gas pressure, but that this may also decrease efficacy. DOE reviewed manufacturer catalog offerings and found that several manufacturers offered lamps that were marketed as ''standard life'' and also offered lamps that were marketed as ''long life.'' Catalog information generally indicated that the marketed long life lamps were less efficacious than comparable standard life lamps. Where available, certification data supported this trend. However, DOE notes that there is inconsistency in the industry regarding what actually constitutes a ''long life'' lamp. When comparing lamps offered by different manufacturers, one manufacturer's ''long life'' product may be offered with a lifetime very similar to that of another manufacturer's ''standard life'' product. Further, while DOE is aware that lifetime is a feature valued by consumers, DOE's analysis ensures that the lifetimes typically available at the baseline level are also available at higher efficacy levels (see section VI.D.2.g for more details). In this way, DOE's higher efficacy levels do not impact consumer utility and DOE accounts for any differences in lifetime as economic impacts in the LCC and NIA. Therefore, DOE did not establish separate product classes for long life GSFLs in this final rule analysis.

c. Summary of GSFL Product Classes

In this final rule analysis, DOE established product classes for GSFLs as summarized in Table VI.3. See chapter 3 of the final rule TSD for further details on each GSFL product class.

TABLE VI.3—GSFL PRODUCT CLASSES IN FINAL RULE ANALYSIS

Lamp type	CCT
4-foot medium bipin	≤4,500 K
	>4,500 K
2-foot U-shaped	≤4,500 K
	>4,500 K
8-foot single pin slimline	≤4,500 K
	>4,500 K
8-foot recessed double contact high output	≤4,500 K
	>4,500 K
4-foot T5, miniature bipin standard output	≤4,500 K
	>4,500 K
4-foot T5, miniature bipin high output	≤4,500 K
	>4,500 K

2. Incandescent Reflector Lamp Product Classes

In the NOPR analysis, DOE proposed product classes for IRLs based on the following three factors: (1) Rated voltage, separating lamps less than 125 V from lamps greater than or equal to 125 V; (2) lamp spectrum, separating lamps with a standard spectrum from lamps with a modified spectrum; and

(3) lamp diameter, separating lamps with a diameter greater than 2.5 inches from lamps with a diameter less than or equal to 2.5 inches. 79 FR at 24092 (April 29, 2014). DOE received comments on the rated voltage and modified spectrum product class setting factors. DOE did not receive feedback on the other product class divisions proposed for IRLs in the NOPR analysis.

a. Rated Voltage

In the NOPR analysis, DOE proposed rated voltage as a class setting factor, establishing a product class for IRLs with voltages less than 125 V and a product class for IRLs with voltages greater than or equal to 125 V. NEMA stated that DOE's reasoning for a separate 130 V product class was out of concern that consumers would shift to 130 V options that are less efficient than 120 V lamps resulting in increased energy consumption. However, NEMA noted that when operated at 120 V, a 60 W 130 V PAR38 uses less energy, approximately 54–55 W. Further, NEMA stated that since this decreases light output, consumers would not choose 130 V IRLs to 'cheat' on energy conservation standards. (NEMA, No. 54 at p. 30)

DOE agrees that the 130 V lamp described by NEMA would use less energy when operated at 120 V. However, in the NOPR analysis and in this final rule DOE concludes that the corresponding decrease in light output would result in consumers purchasing additional lamps to maintain sufficient light. *79 FR* at 24093 (April 29, 2014). Therefore, setting higher standards for IRLs without accounting for voltage differences could result in increased energy consumption.

Westinghouse remarked that the absence of 130 V IRLs on the market has resulted in a loss in utility as 130 V IRLs were used to maintain product lifetimes in areas with transients, voltage spikes, and other power issues, and that consumers in those markets will have to buy more light bulbs due to voltage issues. Citing the 130 V lamps as an example, Westinghouse noted that in this rulemaking DOE has to be careful when setting new IRL standards that such unintended consequences do not happen as they cannot be fixed in the future due to the backsliding provision. (Westinghouse, Public Meeting Transcript, No. 49 at pp. 43–44)

DOE is aware that the 130 V lamps can provide a certain utility by lasting longer than 120 V lamps in certain areas that are susceptible to voltage spikes. However, based on its assessment that most consumers operate 130 V IRLs at 120 V and differences in efficacy when they are operated at 120 V versus tested at 130 V, DOE determined that there would be a potential migration to 130 V IRLs if they were subject to the same standards as 120 V IRLs and further that there would be additional purchases of 130 V IRLs by the consumer. Hence, in order to preserve energy savings, DOE maintained the rated voltage class division that separates covered IRLs less than 125 V from those that are greater than or equal to 125 V in this rulemaking. (See chapter 3 of the final rule TSD for further information.)

b. Modified Spectrum

Modified spectrum IRLs provide unique utility to consumers by providing a different type of light than standard spectrum lamps, much like fluorescent lamps with different CCT values. However, the same technologies (*i.e.,* coatings) that modify the spectral emission of a lamp also decrease lamp efficacy. Therefore, in the NOPR DOE proposed a product class division separating standard spectrum IRLs from modified spectrum IRLs. 79 FR at 24093 (April 29, 2014).

EEOs added that a separate product class for modified spectrum lamps may not be needed as more efficient technologies, such as CFLs and LEDs, are able to achieve the same utility and also due to the lack of commercially available modified spectrum lamps covered by the rulemaking. (EEOs, No. 55 at pp. 7–8) CA IOUs agreed that due to the limited number of modified spectrum IRLs on the market, the category should be eliminated. (CA IOUs, Public Meeting Transcript, No. 49 at p. 20) ASAP and CA IOUs concluded that there is no need to make an exemption or have a less efficacious standard for modified spectrum lamps. (ASAP, Public Meeting Transcript, No. 49 at pp. 17–18; CA IOUs, Public Meeting Transcript, No. 49 at p. 20) NEMA commented that modified spectrum lamps, like 130 V lamps, cannot remain both cost effective and compliant and referred DOE to manufacturer interviews for additional details. (NEMA, No. 54 at p. 31)

As in the NOPR, DOE continues to believe that modified spectrum lamps offer unique utility by providing a different spectrum of light. 79 FR at 24093 (April 29, 2014). Although more efficient technologies, such as CFLs and LEDs, may offer similar spectrums, DOE must maintain consumer utility for the products that are within the scope of this rulemaking. Modified spectrum IRLs modify the spectral emission of a lamp in such a way that lamp efficacy decreases. DOE acknowledges that there are currently no modified spectrum products on the market. However, DOE maintains that there are no technological barriers to creating these products. DOE does not consider cost when establishing product classes. Because modified spectrum lamps offer unique utility but at lower efficacy compared to standard spectrum products, DOE maintained the class division for lamp spectrum in this final rule.

c. Summary of IRL Product Classes

In this final rule analysis, DOE established product classes for IRLs as summarized in Table VI.4. See chapter 3 of the final rule TSD for further details on each IRL product class.

TABLE VI.4—IRL PRODUCT CLASSES IN FINAL RULE ANALYSIS

Lamp type	Diameter (in inches)	Voltage
Standard Spectrum	>2.5	≥125 V
	.....	<125 V
	≤2.5	≥125 V
	.....	<125 V
Modified Spectrum	>2.5	≥125 V
	.....	<125 V
	≤2.5	≥125 V
	.....	<125 V

D. Engineering Analysis

1. General Approach

The engineering analysis is generally based on commercially available lamps that incorporate the design options identified in the technology assessment and screening analysis. (See chapters 3 and 4 of the final rule TSD for further information on technology and design options.) The methodology consists of the following steps: (1) Selecting representative product classes, (2) selecting baseline lamps, (3) identifying more efficacious substitutes, and (4) developing efficacy levels by directly analyzing representative product classes and then scaling those efficacy levels to non-representative product classes. The details of the engineering analysis are discussed in chapter 5 of the final rule TSD. The following discussion summarizes the general steps of the engineering analysis:

Representative product classes: DOE first reviews covered lamps and the associated product classes. When a product has multiple product classes, DOE selects certain classes as ''representative'' and concentrates its analytical effort on these classes. DOE selects representative product classes primarily because of their high market volumes.

Baseline lamps: For each representative product class, DOE selects a baseline lamp as a reference point against which to measure changes resulting from energy conservation standards. Typically, a baseline model is the most common, least efficacious lamp sold in a given product class. DOE also considers other lamp characteristics in choosing the most appropriate baseline for each product class such as wattage, lumen output, and lifetime.

More efficacious substitutes: DOE selects higher efficacy lamps as replacements for each of the baseline models considered. When selecting higher efficacy lamps, DOE considers only design options that meet the criteria outlined in the screening analysis (see section VI.B or chapter 4 of the final rule TSD). For GSFLs, DOE pairs each lamp with an appropriate ballast because fluorescent lamps are a component of a system, and their performance is related to the ballast on which they operate.

Efficacy levels: After identifying the more efficacious substitutes for each baseline lamp, DOE develops ELs. DOE bases its analysis on three factors: (1) The design options associated with the specific lamps studied; (2) the ability of lamps across wattages to comply with the standard level of a given product class; [26] and (3) the max tech EL. DOE then scales the ELs of representative product classes to those classes not directly analyzed.

DOE received a comment regarding the general methodology of the IRL engineering. GE recommended that DOE conduct two separate analyses for the commercial sector and residential sector. GE noted that lamps in the residential sector have shorter lifetimes, such as 1,500 hours, as they are used less frequently and therefore need to be replaced less often, especially if the lamps are on a dimmer. GE continued that the commercial sector requires longer lifetimes of 3,000 to 4,000 hours because lamps in commercial applications can be used up to 16 hours a day. GE stated that the analyses would be skewed between the two markets and that it would have a negative effect on the residential market as residential consumers with their shorter hours of operation are less likely to see the cost savings and payback that commercial consumers would be able to accrue. GE proposed the idea that the commercial and residential lamps could be differentiated by the typical applications, wattages, and technical aspects for each sector. For example, the PAR30 lamps could be treated as residential and PAR38 lamps as commercial. GE further commented that they understood that separating the lamps by sector could be difficult, but that the separation is necessary, as the proposed max tech levels applied across sectors would have the unintended consequences of removing certain utility and entire products from the market. (GE, Public Meeting Transcript, No. 49 at pp. 105–106, 116–117) NEEA agreed that separate analyses could be done for the commercial sector and for the residential sector. Alternatively, NEEA also suggested segregating the large commercial sector from the residential and small commercial sectors, such as independent, family-owned businesses and other consumers that purchase lighting similarly to homeowners. (NEEA, Public Meeting Transcript, No. 49 at p. 131)

DOE acknowledges that lamps have varying levels of penetration in different market sectors. However, there is nothing that would limit the use of a covered IRL in a specific sector. Therefore, DOE does not conduct sector-based assessments in the engineering analysis. Rather, the LCC analysis and NIA consider lamp use in different market sectors. The LCC analysis provides results for each analyzed lamp in each relevant sector. See section VII.B.1 for results of the IRL LCC analysis. The shipments analysis accounts for the number of shipments by sector and the popularity of analyzed lamps in each sector. The results are subsequently used in the NIA. See section VII.B.3 for results of the NIA. Further, as part of the engineering analysis, when selecting more efficacious substitutes and establishing efficacy levels, DOE ensures that products at higher efficacy levels meet baseline consumer needs. DOE's analysis of IRLs addresses the concerns regarding lifetime and product availability. See section VI.D.3 for further details. Therefore, DOE did not conduct separate engineering analyses by sector for IRLs.

Stakeholders had several comments specific to the GSFL and IRL engineering analyses presented in the NOPR. The following sections discuss and address feedback received from stakeholders for each product.

2. General Service Fluorescent Lamp Engineering

For GSFLs, DOE received several comments on the engineering analysis presented in the NOPR. The following sections summarize the comments and responses received on these topics, and present the GSFL engineering methodology for this final rule analysis.

a. Data Approach

Usability of Certification Data and Catalog Data

Because not all commercially available products had associated certification data, DOE was unable to rely solely on certification data in the preliminary analysis. At the time of the NOPR analysis, DOE's Compliance Certification Management System (CCMS) database [27] only contained data for 68 percent of the covered commercially available lamps. Therefore, in the NOPR analysis, DOE continued to utilize catalog data to identify baseline products and develop initial efficacy levels. DOE then used available certification data to adjust the initial efficacy levels so that the proposed levels could be met with efficacies submitted for certification.

NEMA commented that while catalog data is reviewed on a regular basis, due to publication delays it may not reflect all products being manufactured and, therefore, certification data would

[26] ELs span multiple lamps of different wattages. In selecting ELs, DOE considered whether these multiple lamps can meet the standard levels.

[27] The publicly available compliance information for GSFLs can be found in DOE's compliance Certification Database available here: *www.regulations.doe.gov/certification-data/*.

provide a more realistic representation of products than catalogs. For example, NEMA commented on DOE's assessment that only 68 percent of the commercially available fluorescent lamps in the scope of this rulemaking have certification data. NEMA stated that this percentage suggests that products identified by DOE in catalogs are not really made or sold as all manufacturers are required to submit certification data to DOE on their products on an annual basis. (NEMA, No. 54 at p. 19)

DOE understands that catalog data is subject to publication delays and may not be updated on a continuous basis. DOE frequently reviews both the available catalog data and certification data. At the time of the final rule analysis, DOE's certification database contained data for 79 percent of the covered commercially available lamps. While this percentage was an increase from the NOPR analysis, it still did not represent a comprehensive dataset on which to base an engineering analysis. Therefore, in this final rule analysis, DOE again utilized both catalog data and certification data in order to assess all available data. Specifically, DOE utilized catalog data to identify baseline products and develop initial efficacy levels. This approach ensured consideration of all available products. DOE then used available certification data to adjust the initial efficacy levels, if necessary, thereby ensuring that the adopted levels can be met based on the certification values submitted by manufacturers to demonstrate compliance with standards.

Regarding the certification data, NEMA stated that they had determined that erroneous conclusions could be drawn from the data in DOE's certification database. NEMA commented on an exchange with DOE regarding the application of cathode heat during testing for T8 lamps in the 4-foot MBP and 2-foot U-shaped product classes. NEMA stated that the application of cathode heat for full wattage lamps and U-shaped lamps is clear as they do not have high frequency specifications. However, NEMA asserted that while ANSI C78.81–2010 specifies that the reduced wattage (30 W, 28 W and 25 W) 4-foot MBP T8 lamps have normative high frequency (HF) reference ballast circuits, DOE requires they be tested at low frequency and permits exclusion of cathode heat, which makes them appear more efficacious than full wattage lamps. NEMA asserted that DOE certification database has erroneous values for reduced wattage lamps for the following reasons: (1) There was a lack of awareness of the exchange between DOE and NEMA on the subject of cathode heat and high frequency circuits for reduced wattage lamps; (2) the current DOE test procedure incorporates ANSI C78.81–2010, which made high frequency reference photometry normative for reduced wattage T8 lamps but requires that these lamps be tested at low frequency and permits the removal of cathode heat, which makes them seem more efficacious; and (3) DOE certification data is not required to be resubmitted if there are no changes affecting efficacy of the basic model. (NEMA, No. 54 at pp. 23–24)

DOE acknowledges that there may be confusion in the industry regarding how to test certain lamp types. Per the DOE test procedure, GSFLs are to be tested at low frequency unless only high frequency reference ballast specifications are available. (See section 4.1.1 in 10 CFR 430, subpart B, appendix R.) Because low frequency settings exist, 4-foot MBP lamps and 2-foot U-shaped lamps must be tested at low frequency. For lamps tested at high frequency, the industry standard referenced by the DOE test procedure, LM–9–09,[28] specifies that cathode heat is not utilized for high frequency circuits. Manufacturers are encouraged to contact *general_service_fluorescent_lamps@ee.doe.gov* with questions regarding DOE's test procedure.

Calculation of Efficacy

DOE calculated efficacy as the initial lumen output published in manufacturer catalogs divided by the ANSI rated wattage. For lamp types that do not have a defined ANSI rated wattage, DOE utilized the lamp's nominal wattage to calculate catalog efficacy. For example, because reduced wattage 4-foot T5 MiniBP HO lamps do not have a defined ANSI rated wattage, DOE used their nominal wattages, either 49 W or 47 W, to calculate efficacy.

NEMA commented on DOE's use of catalog lumens and ANSI wattage to determine catalog efficacy, stating that lamp wattage may vary when measuring catalog lumens for rating purposes. Further, NEMA noted that the ANSI-typical electrical characteristics are given for informational use only and that any determination of lamp power or efficacy from these values would be considered as rough estimates. (NEMA, No. 54 at p. 23)

ANSI rated wattage is the result of standardized ANSI testing and represents an industry agreed upon wattage. As noted by NEMA in response to the preliminary analysis, the rated wattage is based on the average of a very large number of samples and manufacturers produce lamps to fall on and around that point. Therefore, the individual lamp tested wattage will differ from this rated value of that lamp. NEMA stated that it would defer to its members, but in general it supported using the ANSI rated wattage rather than the measured wattage. 79 FR at 24095 (April 29, 2014). Lamp wattage is also reported by manufacturers in the CCMS database. However, DOE identified inconsistencies with the reported wattage. For example, some manufacturers appeared to report nominal wattage rather than measured wattage. DOE notes that using the ANSI rated wattage provides a conservative rating for the efficacy for several lamp types, specifically those lamp types tested at low frequency (*i.e.,* 4-foot MBP, 2-foot U-shaped, and 8-foot SP slimline). Therefore, DOE continued to use the ANSI defined rated wattage in this final rule.

For lamp types that do not have a defined ANSI rated wattage, DOE utilized the lamp's nominal wattage to calculate catalog efficacy. NEMA commented that the assumption that the rated wattage and nominal wattage of reduced wattage 4-foot T5 MiniBP HO lamps are the same is not valid. NEMA noted that until an industry standard is completed, these values are speculative in nature. (NEMA, No. 54 at p. 26)

DOE acknowledges that reduced wattage 4-foot T5 MiniBP HO lamps do not have a defined rated wattage. However, DOE believes that the nominal wattage is a reasonable approximation of rated wattage for these lamps, based on the guidelines for defining nominal wattage in ANSI C78.81. After developing initial levels based on efficacies calculated using catalog data and ANSI wattages, DOE reviewed certification data. The reported values for efficacy are based on measured lumen output and measured wattage as specified in DOE's test procedures for GSFLs set forth at 10 CFR part 430, subpart B, appendix R. Utilizing ANSI rated wattage to calculate catalog efficacy and reported efficacy for developing final efficacy levels eliminates the uncertainty associated with the wattages reported for compliance.

Rounding

NEMA disagreed with DOE's current GSFL test procedure that requires efficacies be reported to the nearest tenth. 10 CFR 430.23(r)(2) NEMA stated that due to the uncertainty of

[28] ''IES Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps'' (approved Jan. 31, 2009).

measurement, reporting lumen values to the nearest tenth was statistically incorrect and could result in enforcement issues; and further recommended that DOE require efficacies to be rounded to the nearest lumen per watt. Specifically, NEMA quoted that the National Institute of Standards and Technology (NIST) TL standards measurement of expanded uncertainty is 1.6 percent (coverage factor k=2). NEMA provided the example that a highly stable 3,000-lumen F32T8 fluorescent lamp based on NIST standards would result in an uncertainty for the reported mean of +/− 33 lumens for 21 samples. Further, NEMA stated that in addition to being contrary to the NIST ''Guidelines for Evaluating and Expressing the Uncertainty of NIST Measurement Results'' (GUM) rounding to the nearest tenth also did not align with International Laboratory Accreditation Cooperation (ILAC) Policy for Uncertainty in Calibration (ILAC–P14:01/2013). The policy states that the expanded uncertainty should be at most two significant figures and the final result rounded to the least significant figure in the value of the expanded uncertainty assigned to the measurement result. NEMA noted that an accredited laboratory with measurements traceable to SI units through a National Metrology Institute cannot have a measurement uncertainty less than the artifact samples utilized to calibrate their systems and random lamp production samples would add further uncertainty. (NEMA, No. 54 at pp. 15–16)

As specified in DOE's test procedures for GSFLs set forth at 10 CFR part 430, subpart B, appendix R, lamp efficacy is the ratio of measured lumen output in lumens to the measured lamp electrical power input in watts rounded to the nearest tenth in units of lumens per watt. In the 2009 final rule for the GSFL and IRL test procedure, DOE amended the test procedure to require reported efficacy measurements for GSFLs to be rounded to the nearest tenth of a lumen per watt allowing for future energy conservation standards to be rounded to the nearest tenth of a lumen per watt. 74 FR 31829, 31836 (July 6, 2009). DOE concluded this amendment to the test procedure was feasible because manufacturers routinely generate test results that would allow reporting to at least the tenth of a lumen per watt level. 74 FR at 31836 (July 6, 2009).

Therefore, DOE analyzed efficacy levels in this rulemaking rounded to the nearest tenth of a lumen per watt as DOE maintains that this is an achievable level of accuracy.

b. Representative Product Classes

When a covered product has multiple product classes, DOE identifies and selects certain product classes as representative and analyzes those product classes directly. DOE chooses these representative product classes primarily due to their high market volumes. In the NOPR, DOE identified all GSFLs with CCTs less than or equal to 4,500 K with the exception of the 2-foot U-shaped lamps as representative product classes. 79 FR at 24096 (April 29, 2014). DOE received no comments on this subject and therefore maintained the same representative product classes for the final rule.

c. Baseline Lamps

Once DOE identifies representative product classes for analysis, it selects baseline lamps to analyze in each class. Typically, a baseline lamp is the most common, least efficacious lamp that just meets existing energy conservation standards. In the NOPR, DOE proposed baselines at the existing standard levels for all product classes. *Id.* at 24097–98. For the 4-foot MBP and 8-foot slimline product classes, DOE determined the baseline to be the least efficient product on the market at the existing standard level. For representative product classes in which there were no commercially available lamps at the existing standard level, DOE modeled baseline lamps. Feedback from stakeholders and manufacturer interviews indicated that manufacturers will likely produce lamps at the existing standard level even if no products are currently available. Further, after the 2009 Lamps Rule, DOE observed the introduction of products that were not previously available at the newly adopted standard levels for some product classes. Thus, DOE believed this trend could continue and additional lamps may be offered that just meet the existing standard level for the remaining product classes. In the NOPR, DOE modeled baseline lamps for the 8-foot RDC HO, T5 MiniBP SO, and T5 MiniBP HO product classes. *Id.*

NEMA agreed with the baselines selected for GSFLs based on the data in DOE's certification database, but noted its concern that product performance may be overstated due to data entry errors in the certification database or the use of catalog data that shows higher than actual performance of products. (NEMA, No. 54 at p. 17)

Because DOE received no comments to the contrary, DOE analyzed the same baselines in the final rule analysis as analyzed in the NOPR. DOE selected commercially available lamps as baselines for the 4-foot MBP and 8-foot slimline product classes and modeled baseline lamps for the 8-foot RDC HO, T5 MiniBP SO, and T5 MiniBP HO product classes. Regarding overstated product performance, DOE addresses discrepancies within the available data sets in section VI.D.2.a and discusses its methodology for developing efficacy levels in section VI.D.2.g.

d. More Efficacious Substitutes

DOE selects more efficacious replacements for the baseline lamps considered within each representative product class. DOE considers only design options identified in the screening analysis. In the NOPR, these selections were made such that potential substitutions maintained light output within 10 percent of the baseline lamp's light output with similar performance characteristics, when possible. 79 FR at 24098 (April 29, 2014). DOE also sought to keep other characteristics of substitute lamps as similar as possible to the baseline lamps, such as rated life, CRI, and CCT. In identifying the more efficacious substitutes, DOE utilized a database of commercially available lamps. DOE received several comments regarding its choices for more efficacious substitutes in the NOPR.

Four-Foot MBP Lamps

In the NOPR analysis, DOE analyzed two levels for 4-foot MBP lamps above the baseline, with the highest level represented by a more efficacious full wattage 4-foot MBP lamp and two reduced wattage lamps (28 W and 25 W) that are commercially available.

CA IOUs questioned why DOE did not consider 30 W lamps in its analysis, which would be another opportunity to save energy and stay within 10 percent of lumen output. (CA IOUs, Public Meeting Transcript, No. 49 at pp. 94–95)

DOE analyzed a database of commercially available lamps to identify the most common characteristics of lamps in each product class including wattage. DOE found the 30 W 4-foot MBP lamp to be significantly less common than the 28 W and 25 W wattages. Manufacturer feedback confirmed the most popular reduced wattage lamps in the 4-foot MBP product class to be 28 W and 25 W. Further, for consumers who choose to purchase a reduced wattage product, DOE believes the 28 W and 25 W products capture both options available: one that saves energy while maintaining lumen output within 10 percent of the lumen output of typical 32 W products and one that saves more energy but offers slightly lower lumen output. Because 28 W lamps are more

efficacious than 30 W lamps and save more energy, DOE believes that consumers opting to purchase reduced wattage lamps will choose 28 W lamps rather than 30 W lamps. Therefore, DOE continued to analyze only 28 W and 25 W reduced wattage 4-foot MBP lamps in the final rule.

T5 MiniBP HO Lamps

In the NOPR analysis, DOE modeled a baseline lamp for the T5 HO product class because a commercially available lamp was not offered at the existing standard level. DOE analyzed one level above the baseline, represented by a more efficacious full wattage T5 HO lamp and two reduced wattage T5HO lamps that are commercially available.

NEMA noted that DOE should not use modeled lamps to determine more efficacious substitutes for T5 MiniBP HO lamps. (NEMA, No. 54 at p. 18) NEMA stated that if a more efficacious design was possible it would already be commercially available. Because of the high bulb wall temperatures in T5 MiniBP HO lamps, there are many characteristics to consider such as phosphor loading, cold spot control, cathode design, gas fill for reduced wattage products, and overall design for optimal performance at 35 °C. Further, NEMA was skeptical that DOE could produce measured data that demonstrates manufacturability of the more efficacious modeled T5 MiniBP HO lamp. (NEMA, No. 54 at p. 26)

As noted in section VI.D.3.b in response to stakeholder comments DOE modeled a baseline lamp for the NOPR analysis because the T5 HO product class does not have a commercially available lamp that just meets the existing standard. Because there are full wattage products that have demonstrated efficacy higher than the existing standard, DOE believes the modeled baseline lamp is feasible. Based on this new baseline, in the NOPR analysis DOE was able to identify a more efficacious full wattage T5 HO substitute that is commercially available. For the final rule, DOE continues to analyze the same baseline and higher efficacy replacements, including the commercially available full wattage T5 HO lamp.

e. General Service Fluorescent Lamp Systems

Because fluorescent lamps operate on ballasts in practice, DOE analyzed lamp-and-ballast systems, thereby more accurately capturing real-world energy use and light output. In the DOE test procedure for GSFLs, and therefore in this rulemaking, lamp efficacy is based on the initial lumen output. However, because light output decreases over time, DOE analyzed more efficacious systems that maintain mean lumen output[29] within 10 percent of the baseline system, when possible. Further, DOE selected replacement systems that do not have higher energy consumption than the baseline system.

DOE considered two different scenarios: (1) A lamp replacement scenario in which the consumer selects a reduced wattage replacement lamp that can operate on the installed ballast and (2) a lamp-and-ballast replacement scenario in which the consumer selects a lamp that has the same or lower wattage compared to the baseline lamp and also selects a new ballast with potentially different performance characteristics, such as ballast factor[30] (BF) or ballast luminous efficiency[31] (BLE). In the second scenario DOE attempted to select a ballast that would result in energy savings and still maintain the mean lumen output within 10 percent of the baseline. DOE identified a new lamp-and-ballast system by pairing a more efficacious lamp with a commercially available ballast that had the lowest BF possible that still maintained system mean lumen output within 10 percent of the baseline system. When multiple ballast options with the same BF existed, DOE selected the most efficient ballast based on the BLE metric, as this was considered to be the most likely ballast substitute in a lamp-and-ballast replacement scenario designed to achieve energy savings. If it was not possible to identify a lamp-and-ballast replacement that maintained the 10 percent mean lumen output criterion, DOE prioritized energy savings and analyzed a lamp-and-ballast system that reduced light output by more than 10 percent[32] but saved energy relative to the baseline system.

NEMA disputed the energy savings demonstrated by the lamp-and-ballast systems. NEMA commented that re-ballasting is not common and thus spaces will more likely be overlit and consume the same amount of system energy. NEMA asserted that a 32 W fluorescent lamp, even if it's more efficacious, will consume the same amount of energy.[33] If ballasts were replaced, NEMA disagreed with DOE's assessment that, in new construction and retrofit scenarios, lamps will be paired with low ballast factor ballasts to result in lower system energy use. Further, NEMA noted that DOE's analysis shows a 2–3 percent change in system lumen output which does not align with the existing 10 percent steps in ballast factors. (NEMA, No. 54 at p. 18)

DOE agrees that a ballast is not always replaced when a lamp fails. DOE analyzes a lamp replacement scenario in which the existing ballast is not replaced and a consumer saves energy by choosing a reduced wattage lamp. For the instances in which the consumer replaces both a lamp and ballast, DOE analyzes a lamp-and-ballast replacement scenario in which a consumer can achieve energy savings by pairing a new lamp with an improved ballast. DOE selected commercially available ballasts to pair with representative lamps and found ballasts with ballast factors available in increments smaller than 10 percent.

DOE received several comments regarding the light level that must be maintained when analyzing replacement lamp-and-ballast systems. CA IOUs stated that they were aware that lumens depreciate over time, decreasing to about 30 percent of initial lumen output. Further, they added that in a lighting retrofit the replacement of a new lamp-and-ballast system can result in up to a 15–17 percent increase in light output, and consumers actually respond negatively to this increase. Therefore, CA IOUs suggested that when examining different scenarios of sacrificing increased light over energy savings or vice versa, DOE prioritize energy savings and maintaining reasonable light levels. (CA IOUs, Public Meeting Transcript, No. 49 at pp. 93–94) NEMA disagreed with the comment made by the CA IOU's during the NOPR public meeting that consumers would not like increased light levels and a decrease of up to 10 percent of lumens would still be too much light for consumers. NEMA stated that recent studies show that the aging population

[29] Mean lumen output is a measure of light output midway through the rated life of a lamp.

[30] BF is defined as the output of a ballast delivered to a reference lamp in terms of power or light divided by the output of the relevant reference ballast delivered to the same lamp (ANSI C82.13–2002). Because BF affects the light output of the system, manufacturers design ballasts with a range of ballast factors to allow consumers to vary the light output, and thus power consumed, of a fluorescent system. See the 2011 Ballast Rule final rule TSD Chapter 3. The Ballast Rule materials are available at *www.regulations.gov/#!docketDetail;D=EERE-2007-BT-STD-0016*.

[31] BLE is the ratio of the total lamp arc power to ballast input power multiplied by the appropriate frequency adjustment factor.

[32] Light output was reduced up to 18 percent in some replacement scenarios. The percent reduction in light output was based on the ballast factor of the commercially available ballasts analyzed. For more information, see chapter 5 of the NOPR TSD.

[33] If paired with a dimming ballast, energy savings may be possible if the system is adjusted to maintain the same light output of the replaced system.

requires higher light levels and regardless, does not agree that decreasing light by 10 percent in place of energy savings for all applications is acceptable due to lumen depreciation resulting in light that does not meet the required needs, creates safety issue, or violates building codes. (NEMA, No. 54 at pp. 18–19)

DOE notes that, while it may be possible to decrease light output by more than 10 percent in certain situations to maximize energy savings, it is likely not acceptable in all applications. DOE tried to select lamp-and-ballast systems that maintained mean lumen output within 10 percent of the baseline system, when possible. For the lamp-and-ballast replacement scenario, DOE attempted to select a ballast that would result in energy savings and still maintain the mean lumen output within 10 percent of the baseline. In cases where energy savings were not possible without going beyond the 10 percent threshold of the baseline mean lumen output, DOE gave priority to energy savings.

DOE also received comments regarding the pairing of GSFLs with dimming ballasts. CA IOUs noted that California's new building codes will potentially require almost all lighting to use dimming ballasts and therefore the ballasts may become common in other states as well. CA IOUs noted that this presents another opportunity for saving energy without increasing light. (CA IOUs, Public Meeting Transcript, No. 49 at pp. 94–96) CA IOUs requested clarification on compatibility issues when dimming fluorescent lamps because of the expected increase in the use of dimming products in California. (CA IOUs, Public Meeting Transcript, No. 49 at p. 63) ASAP noted that there are reduced wattage lamps that are able to be dimmed and because it is an improving situation, the analysis should not be so rigid as to require that there always be full wattage lamps available. (ASAP, Public Meeting Transcript, No. 49 at p. 65) GE responded that while reduced wattage lamps can be dimmed, their use of krypton makes them more susceptible to striations which are unacceptable to the consumer. GE added that because of this issue, major companies recommend using full wattage lamps with dimming systems as actual energy savings are obtained from the wattage at which the lamps are being operated rather than their efficacy. (GE, Public Meeting Transcript, No. 49 at pp. 66–67)

DOE agrees with the CA IOUs that the market share of dimmable systems may increase in the future and therefore continued to analyze dimmable systems in the final rule. While certain dimming ballasts are listed as compatible for operation with both full and reduced wattage lamps, DOE continues to receive feedback that there can be issues with dimming reduced wattage lamps. Specifically DOE received feedback from manufacturer interviews that problems that can be encountered when dimming linear fluorescent lamps, including difficulties in lamp starting, striations, and dropout, are exacerbated by the use of krypton in reduced wattage lamps. Because of these issues, DOE has continued to ensure that full wattage lamps can meet the efficacy levels analyzed.

In the final rule, DOE continued to analyze GSFLs operating on fluorescent lamp ballasts. In situations where a consumer selects a new ballast in addition to a new lamp, DOE allows the consumer to select a new ballast with potentially different performance characteristics, such as BF [34] or BLE.[35] DOE maintained the same methodology described previously in this section to select ballasts in the final rule. However, due to certain products being discontinued and new products introduced, certain ballast selections in the final rule for the 4-foot MBP, 8-foot SP slimline, and 8-foot RDC HO product classes were updated. See chapter 5 of the final rule TSD for additional detail.

f. Max Tech

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max tech'') improvements in efficacy for GSFLs using the design parameters for the most efficient products available on the market or in working prototypes.

NEMA advised DOE to be wary of claims of ultra-performance lamps in the certification database, particularly since there have been no technology breakthroughs since the 2009 Lamps Rule and therefore, the max tech established in that rulemaking should not change. (NEMA, No. 54 at p. 25, 29)

In reviewing available certification data, DOE considered the possibility of exorbitant claims or incorrect data. DOE identified several efficacy values that it did not consider feasible for fluorescent lamp technology and therefore did not consider in this analysis. In general, these outliers were identified based on the reported wattage, which indicated that these lamps may not have been tested correctly. However, DOE still identified several commercially available lamps performing at efficacy levels higher than the max tech levels established in the 2009 Lamps Rule based on catalog data and certification data. Thus, manufacturers appear to be utilizing more advanced technologies or to be more efficiently utilizing existing technologies.

g. Efficacy Levels

After identifying more efficacious substitutes for each of the baseline lamps, in the NOPR DOE developed ELs based on the consideration of several factors, including: (1) The design options associated with the specific lamps being studied (*e.g.,* grades of phosphor for GSFLs); (2) the ability of lamps across wattages to comply with the standard level of a given product class; and (3) the max tech level. When evaluating ELs in the NOPR, DOE considered only ELs at which a full wattage version of the lamp type was available because reduced wattage lamps have limited utility. 79 FR at 24103 (April 29, 2014). DOE received several comments on the ELs considered in the NOPR.

Clarification of Standard Levels

ASAP commented that the rulemaking for GSFLs is a performance standard and not a design standard, thus ensuring that full wattage lamps are available should not be a constraint for DOE. (ASAP, Public Meeting Transcript, No. 49 at pp. 50–51)

DOE agrees with ASAP that the efficacy levels analyzed in this rule are performance standards rather than design standards. Thus, DOE does not dictate how manufacturers must comply with a standard (*i.e.,* requiring that they produce full wattage lamps). However, DOE must evaluate standards that do not lessen utility or performance of a product. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) As described in section VI.D.2.e, DOE has determined that reduced wattage lamps cannot be used in all of the same dimming systems as full wattage lamps due to the addition of krypton gas. Therefore, DOE has established a

[34] BF is defined as the output of a ballast delivered to a reference lamp in terms of power or light divided by the output of the relevant reference ballast delivered to the same lamp (ANSI C82.13–2002). Because BF affects the light output of the system, manufacturers design ballasts with a range of ballast factors to allow consumers to vary the light output, and thus power consumed, of a fluorescent system. See the 2011 Ballast Rule final rule TSD Chapter 3. The Ballast Rule materials are available at *www.regulations.gov/#!docketDetail;D=EERE-2007-BT-STD-0016*.

[35] BLE is the ratio of the total lamp arc power to ballast input power multiplied by the appropriate frequency adjustment factor.

performance standard such that manufacturers can continue to produce full wattage lamps if required by consumers.

Methodology To Develop Efficacy Levels

EEOs agreed with DOE's approach using catalog lumens and ANSI wattages for GSFLs to establish initial efficacy levels and then adjusting the levels based on certification data to ensure that certified values could meet proposed standards. EEOs did note that DOE had not provided specifics of the adjustments based on certification data. Based on its observations of the certified efficacy levels for a significant number of lamps, from several manufacturers, EEOs determined that the proposed standard levels for the 4-foot and 8-foot T8/T12 products were reasonable. (EEOs, No. 55 at pp. 4–5)

However, manufacturers offered several comments regarding the methodology for determining efficacy levels and how it might affect manufacturers' ability to comply with an adopted standard level. NEMA stated that manufacturers design products around the midpoint of a bell distribution curve, and therefore when the required standard is below the max-tech level, manufacturers have room to make adjustments (*e.g.,* reducing lifetime, adding costly material) to ensure that all their products can meet the standard level. However, NEMA stated that because DOE's proposed standards for GSFLs are approaching max-tech, the design mid-point is above this max-tech level which does not allow manufacturers to build in production tolerances that would ensure compliance. (NEMA, No. 54 at p. 12) GE stated that if DOE sets the level at the upper tail of the distribution of data, it will be requiring efficacies above max tech which is at the center of that distribution. GE encouraged DOE to use the information in NEMA Lighting System Division (LSD)-63 Measurement Methods and Performance Variation for Verification Testing of General Purpose Lamps and Systems paper to analyze data in the DOE certification database and assess the variation between test measurements and in production. (GE, Public Meeting Transcript, No. 49 at pp. 86–88) Further, NEMA noted that while there is no statutory definition for the term ''standard,'' NEMA quoted specification of the term put forth by the International Standards Organization and the Office of Management and Budget. NEMA stressed that a standard must be capable of being met consistently and repeatedly by manufacturers and one that cannot be is not within DOE's authority to promulgate. (NEMA, No. 54 at p. 13)

To demonstrate compliance with standards, DOE requires manufacturers to test a minimum of 21 lamps according to the procedures described in 10 CFR 430, subpart B, Appendix R and report a value that does not exceed the lower of the sample mean or the 95 percent lower confidence limit (LCL) of the true mean divided by 0.97. The greater the variation in the tested sample, the more likely that manufacturers will report the second value (*i.e.,* LCL). DOE notes that the statistics included in the compliance procedures are intended to ensure that manufacturers are reporting a value that approximates the population mean. Each tested lamp is not individually required to meet or exceed the standard level. Designing products such that their population mean or the performance of each individual lamp unit within the population exceeds DOE's standard level is not required and is done so at the discretion of individual manufacturers.

DOE believes the efficacy levels analyzed in this rulemaking represent expected population means rather than outlier data in the high end of a bell distribution curve. DOE received feedback from manufacturers during interviews that catalog data represents the long term average performance of products. DOE uses catalog data to establish initial efficacy levels. DOE then compares the efficacy levels to available certification data and adjusts the levels downward if necessary. DOE does not believe that the certification values represent outlier data in the high end of a bell distribution curve. Manufacturers must select a minimum of three lamps from each month of production for a minimum of 7 months out of a 12-month period.[36] It is unlikely that selecting lamps from multiple months of production over the course of a year will result in a value that is consistently in the high end of a bell distribution curve. Furthermore, if manufacturers believe their test results are artificially high, they have the opportunity to report a more conservative value as DOE allows manufacturers to rate the product within the range of the existing standard up to the lower of the LCL divided by 0.97 or the mean. *See* 10 CFR part 430, subpart B, Appendix R.

Using this methodology, DOE accounts for variation in tested samples and ensures efficacy levels are based on values determined by DOE's test procedures and reported by manufacturers themselves. In this final rule, DOE has maintained the same methodology to develop efficacy levels.

Long-Life Lamps

NEMA stated that GSFL manufacturers have recently introduced reduced wattage 4-foot T8 MPB lamps with 84,000–90,000 hour life and full wattage (dimmable) lamps with 67,000–70,000 hour life. NEMA noted that these products offer more than twice the life and better lumen maintenance than standard product with the same initial lumens, attributes that provide consumer utility. However, NEMA asserted that the proposed efficacy standard levels will eliminate the 4-foot 32 W dimmable long life and 28W long life lamps leaving only the 25W long life lamps and also eliminate a patchwork of full and reduced wattage standard lamps between 42,000 and 52,000 hours. Additionally, NEMA stated the T5 MiniBP HO long-life product would also not be able to meet the proposed standard. NEMA also warned that industry would not produce new products in response to the proposed standards but instead reduce existing product offerings and re-purpose existing products, resulting in decreased consumer satisfaction. Citing T5s specifically, NEMA stated that in order to offer choices to consumers, manufacturers may have to add more rare earth phosphors increasing production costs and then also have to decrease life to lower cost to the consumer. (NEMA, No. 54 at pp. 17–18, 47–48)

DOE reviewed catalog data to identify the long life products cited by NEMA. DOE found that while some manufacturers did offer long life products, the lifetimes of these products were inconsistent across the industry. For example, some manufacturers' long life products are similar in lifetime to other manufacturers' standard life products. While catalog data indicates that some designated long life products would meet analyzed efficacy levels, certification data is noticeably lower, suggesting that these products may not meet the highest level analyzed. DOE believes that lifetime is a feature valued by consumers. However, DOE considers lifetime to be an economic issue unless a standard requires the shortening of lamp lifetime beyond that which is typically available. Because the highest

[36] In the instance where production occurs during fewer than 7 of such 12 months, the manufacturer shall randomly select 3 or more lamps from each month of production, where the number of lamps selected for each month shall be distributed as evenly as practicable among the months of production to attain a minimum sample of 21 lamps.

standard level analyzed will still maintain the availability of 4-foot MBP GSFLs with lifetimes ranging from 30,000 to 50,000 hours,[37] DOE did not adjust the efficacy levels in this final rule due to lifetime.

Four-Foot MBP Lamps

In the NOPR, DOE analyzed a standard 800 series full wattage T8 lamp at the baseline. (See chapter 5 of the NOPR TSD.) DOE identified two levels of efficacy above the baseline. Based on catalog data, DOE determined EL 1 (90.0 lm/W) represented an improved 800 series full wattage T8 lamp and EL 2 (93.0 lm/W) represented an 800 series high lumen output full wattage T8 lamp and the 25 W and 28 W reduced wattage lamps. DOE analyzed available certification information and found that EL 1 did not need to be adjusted from 90.0 lm/W. DOE adjusted EL 2 from 93.0 lm/W to 92.4 lm/W based on certification data. DOE received several comments on the levels analyzed for 4-foot MBP lamps.

NEMA commended DOE on taking an analytical approach rather than relying only on catalog data or DOE certification data to determine efficacy levels for the 4-foot MBP product class. However, NEMA stated that the limitations of both the catalog and DOE certification data need to be considered to understand the efficacy distribution and max tech of 4-foot MBP lamps with CCT ≤ 4,500 K. (NEMA, No. 54 at p. 22)

NEMA commented on figure 5.3.2 of chapter 5 of the NOPR TSD, which shows the certification data for the 4-foot MBP lamps with a CCT less than 4,500 K. NEMA noted that the reported reduced wattage T8 lamp data spreads up to 10–11 percent over the max tech, plausibly indicating a mixture of properly measured 60 Hz photometry without cathode heat and erroneously reported measurements made using the normative ANSI HF ballast reference circuit. (NEMA, No. 54 at p. 24)

As mentioned in section VI.D.2.f, DOE agrees that there may be outliers in certification data due to manufacturers' confusion regarding how to test certain lamp types. DOE developed initial levels based on catalog data and then adjusted the levels based on available certification data. DOE did not adjust levels upward but rather adjusted levels downward if certification data was noticeably lower than catalog data. Thus the erroneously reported measurements cited by NEMA would not have resulted in an increased standard level.

NEMA conducted a detailed review of how the efficacy levels analyzed in the NOPR compared to the available certification data. NEMA noted that the 8 percent tolerance for a 21 sample size and 99 percent confidence limit specified in NEMA's LSD 63–2012 guidance aligns with the spread of certification data for full wattage lamps. Further, NEMA noted that the high lumen full wattage lamps falling at the upper levels of 96 lm/W represents max tech measured with favorable lab measurement bias per LSD 63–2012. (NEMA, No. 54 at p. 24)

NEMA stated that the average maximum technically feasible 4-foot MBP T8 lamp efficacy measured at 60 Hz with cathode heat is close to 92 lm/W. NEMA noted that setting a standard close to the max tech level of 92 lm/W could result in sample measurement variation below the requirement approaching 50 percent and unintended consequences such as statistical production disruption of compliant designs. NEMA concluded that DOE should maintain the current standard at 89 lm/W for 4-foot MBP T8 lamps to allow for the manufacturability of consistently compliant products. (NEMA, No. 54 at p. 24)

GE offered a slightly different opinion on the average maximum technologically feasible efficacy for 4-foot MBP lamps. GE expressed concern that for the 4-foot MBP product class, EL 1 represented the central tendency of a distribution and EL 2 at 92.4 lm/W was based on a data point from DOE's certification database that happened to come out at the higher tail of a distribution. GE noted this as normal statistical variation when taking small samples of large quantities of lamps. (GE, Public Meeting Transcript, No. 49 at pp. 86–87)

NEMA noted its concern that the rulemaking is not following well-established rules for the treatment of statistical variation as applied to the production of compliant lamps. NEMA stated that for the 4-foot MBP product class, the proposed efficacy level of 92.4 lm/W is considered the midpoint of the normal distribution performance curve of compliant lamps. However, because the Certification, Compliance, and Enforcement (CCE) rule (76 FR 12422 (March 7, 2011)) requires almost all lamps to meet the proposed efficacy level, manufacturers would have to design their products above the midpoint which would result in eliminating most of the current best performing argon-based product lines. NEMA also noted that the response that lamps listed in the CCMS database meet the level is not adequate because it ignores differences due to the understanding of reporting requirements and optimistic manufacturer claims. NEMA concluded that DOE is proposing manufacturers consistently and repeatedly produce products above the max tech. (NEMA, No. 54 at p. 22)

As described previously in this section, the statistics included in the compliance procedures are intended to ensure that manufacturers are reporting a value that approximates the population mean. Each tested lamp is not individually required to meet or exceed the standard level. Designing products such that their population mean or the performance of each individual lamp unit within the population exceeds DOE's standard level is not required and is done so at the discretion of individual manufacturers.

DOE believes the efficacy levels analyzed in this rulemaking represent expected population means rather than outlier data in the high end of a bell distribution curve. DOE received feedback from manufacturers during interviews that catalog data represents the long term average performance of products. DOE uses catalog data to establish initial efficacy levels. DOE then compares the efficacy levels to available certification data and adjusts the levels downward if necessary. DOE does not believe that the certification values represent outlier data in the high end of a bell distribution curve. Manufacturers must select a minimum of three lamps from each month of production for a minimum of 7 months out of a 12-month period.[38] It is unlikely that selecting lamps from multiple months of production over the course of a year will result in a value that is consistently in the high end of a bell distribution curve. Furthermore, if manufacturers believe their test results are artificially high, they have the opportunity to report a more conservative value as DOE allows manufacturers to rate the product within the range of the existing standard up to the lower of the LCL divided by 0.97 or the mean as determined per 10 CFR 429.27(a)(2)(i).

Using this methodology, DOE accounts for variation in tested samples and ensures efficacy levels are based on values determined by DOE's test procedures and reported by manufacturers themselves. In this final

[37] Based on 3-hour programmed start operation.

[38] In the instance where production occurs during fewer than 7 of such 12 months, the manufacturer shall randomly select 3 or more lamps from each month of production, where the number of lamps selected for each month shall be distributed as evenly as practicable among the months of production to attain a minimum sample of 21 lamps.

rule, DOE has maintained the same methodology to develop efficacy levels.

NEMA stated that very high efficacy levels proposed and the impossibility of reliably meeting them indicates that consumers will lose the full-wattage (argon-based) lamps in some product categories. NEMA asserted that this would push consumers to reduced wattage (krypton-based) lamps which DOE has acknowledged are not suitable for dimming applications. Further, NEMA stated that control systems are expected to deliver more national energy savings than the 2 percent efficacy difference between the proposed EL 1 and EL 2 levels. NEMA asserted that the proposed EL 2 limits the dimmability and energy saving potential if argon-based lamps cannot meet the level as they can dim far more than 2 percent lower than krypton-based lamps. NEMA also noted that end users may not be aware of potential issues that can occur if reduced wattage lamps are used in the wrong application. (NEMA, No. 54 at p. 27, 48)

NEMA stated that in order to ensure that dimmable argon-based lamps are available to take advantage of energy saving controls, the proposed efficacy level must be properly adjusted downward to make the low end of the bell distribution curve the midpoint and allow industry to be compliant. Specifically, the level must be maintained at 89 lm/W to assure that the very long life high performing argon lamps survive in the marketplace. (NEMA, No. 54 at pp. 22–23)

NEEP commented that high efficacy lamps do not impede control capabilities. NEEP added that the proposed TSL 5 efficacy level allows for 4-foot MBP full-wattage ''high-lumen'' T8 lamps that have the same control and dimming performance as lower efficacy lamps eliminated by the standard. (NEEP, No. 57 at p. 2)

As stated previously in this section, DOE disagrees that the analyzed levels cannot be reliably met by available products. Because manufacturers demonstrate compliance with energy conservation standards by reporting values to DOE that are intended to represent the population mean, DOE develops its efficacy levels based on these values. Thus, DOE is not adjusting efficacy levels downward to reflect the low end of a bell distribution curve. Regarding lighting controls, DOE agrees with NEMA that dimmable systems can offer significant energy savings and therefore ensures that the analyzed levels maintain the availability of full wattage (argon-based) products.

NEMA stated that the proposed level for the 4-foot MBP product class will eliminate over 80 percent of the current full wattage product offering, including the long-life products, and nearly half of the reduced wattage lamps. NEMA noted that this would result in one lamp offering for each of the three common color lamps (830, 835 and 841) per manufacturer. NEMA concluded that this proved DOE's approach to modeling does not work. (NEMA, No. 54 at p. 25)

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such a product. (42 U.S.C. 6295(p)(1)) After determining this level, DOE conducts subsequent analysis to determine the impact of potential standards on individuals, manufacturers, and the nation as a whole. DOE then considers these results to determine whether the benefits of potential standard levels outweigh the burdens. See section VII.C.1 for this discussion.

For the final rule, DOE updated catalog and certification data for all products. DOE continued to identify two levels of efficacy above the baseline. Based on catalog data, DOE determined EL 1 (90.0 lm/W) represented an improved 800 series full wattage T8 lamp and EL 2 (93.0 lm/W) represented an 800 series high lumen output full wattage T8 lamp. Reduced wattage lamps also meet EL 2. Based on available certification information, DOE confirmed that no adjustment to EL 1 was necessary. As stated, DOE adjusted EL 2 to 92.4 lm/W in the NOPR analysis. DOE analyzed available certification information and found that, given additional certification data reported, no additional downward adjustments to EL 2 were necessary. Therefore, DOE analyzed EL 1 at 90.0 lm/W and EL 2 at 92.4 lm/W in the final rule.

Eight-Foot Slimline Lamps

In the NOPR, DOE selected a baseline lamp that just complies with the existing standard level of 97 lm/W. 79 FR at 24097, 24098 (April 29, 2014). The baseline level represents a less efficient 800 series full wattage T8 lamp. DOE then identified two levels of efficacy above this baseline that commercially available lamps are able to achieve. Manufacturer-provided information in catalogs indicates that there are two distinct product lines available with efficacies higher than the baseline product. EL 1 represents a standard 800 series full wattage T8 lamp. EL 2 represents an improved 800 series full wattage T8 lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. Reduced wattage lamps also meet EL 2. DOE found no adjustments were necessary based on certification data and established EL 1 at 98.2 lm/W and EL 2 at 99.0 lm/W in the NOPR.

NEMA stated that there is potential for erroneous high frequency reference ballast photometry testing for full wattage (59 W) and reduced wattage (54 W) 8-foot SP slimline lamps, although less likely for 59 W lamps because ANSI C78.81–2005 and C78.81–2010 versions standardized measurement on low frequency circuits for these lamps. NEMA noted that measurements with 54 W lamps tested on high frequency circuits were more likely to appear in DOE's certification database because this lamp type will be standardized for high frequency testing in the version of ANSI C 78.81 expected to be published in 2014. (NEMA, No. 54 at p. 25) NEMA commented on figure 5.3.4 of chapter 5 of the NOPR TSD, which shows all certification data reported for the 8-foot SP slimline lamps. Specifically, examining the data from 97 lm/W (current standard) to 102.4 lm/W, NEMA stated that the spread was approximately 6 percent which is in agreement with industry expectations as specified in LSD 63–2012 and does not indicate the use of high frequency photometry testing. (NEMA, No. 54 at p. 25)

For the 8-foot SP slimline product class, NEMA recommended that DOE should maintain the current standard of 97 lm/W in order to allow the manufacturability of consistently compliant products. NEMA added that if DOE intended to propose the max tech level of 99 lm/W, it should allow for efficacy compliance tolerances of approximately 8 percent and require reporting only the sample mean value. (NEMA, No. 54 at p. 25)

For the final rule, DOE updated catalog and certification data for all products. DOE continued to identify two distinct levels above the baseline. EL 1 at 98.2 lm/W represents a standard 800 series full wattage T8 lamp and EL 2 at 99.0 lm/W represents an improved 800 series full wattage T8 lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. Reduced wattage lamps also meet EL 2. DOE found no adjustments were necessary based on certification data. As described previously in this section, DOE believes that catalog and certification data approximate the population mean and therefore does not believe that an efficacy level has to be lowered further in order for products reporting those values to comply.

Eight-Foot RDC HO Product Class

In the NOPR, DOE modeled a baseline that just met the existing standard level of 92 lm/W, as described in section VI.D.2.c. DOE then identified two levels of efficacy above the baseline level. EL 1 represents a 700 series full wattage T8 lamp with basic coating, gas composition, and phosphor mix. EL 2 represents a shift to an 800 series full wattage T8 lamp. DOE analyzed publicly available certification data and determined that EL 1 should be adjusted from 95.2 lm/W to 94.0 lm/W for 700 series full wattage T8 lamps based on available certification data. EL 2 was not adjusted based on available certification data and remained 97.6 lm/W. 79 FR at 24103 (April 29, 2014).

NEMA stated that the DOE certification data for the 8-foot RDC HO GSFL lamps with CCT ≤4,500 K lamps was too sparse for analysis and recommended retaining the current standard of 92 lm/W. (NEMA, No. 54 at p. 25) Although commenting that the data was sparse, NEMA claimed that the proposed efficacy levels would eliminate T8 HO lamps and force consumers to change to another fixture or retrofit with another technology. (NEMA, No. 54 at p. 25)

For the final rule, DOE updated catalog and certification data for all products. DOE continued to model a baseline lamp that just meets the existing standard level of 92 lm/W, because feedback from stakeholders and manufacturer interviews indicated that manufacturers will likely produce lamps at the existing standard level even if no products are currently available. DOE again identified two levels of efficacy above the baseline. DOE analyzed publicly available certification data and determined that adjustment to EL 1 in the NOPR analysis was still appropriate and maintained the adjustment from 95.2 lm/W to 94.0 lm/W for 700 series full wattage T8 lamps based on available certification data. EL 2 was not adjusted based on available certification data and remained 97.6 lm/W. While there are fewer product offerings for 8-foot RDC HO lamps than for other covered lamp types, DOE does not believe the data is too sparse for analysis. For the final rule, certification data was available for 71 percent of 8-foot RDC HO lamps. DOE confirmed through its assessment of catalog and certification data that 8-foot RDC HO products meet the analyzed ELs. Because manufacturer-reported data demonstrates that products can meet the analyzed levels, DOE does not believe the efficacy levels would eliminate 8-foot RDC HO lamps and force consumers to switch to another technology.

Four-Foot T5 MiniBP SO Product Class

In the NOPR, DOE modeled a baseline that just met the existing standard level of 86 lm/W, as described in section VI.D.2.c. The baseline level represents a lower efficacy full wattage (28 W) lamp. 79 FR at 24097, 24098 (April 29, 2014). Based on a review of commercially available products, DOE then identified two levels of efficacy above the baseline level at which lamps were consistently performing. Manufacturer-provided information in catalogs indicates that there are two distinct product lines available with efficacies higher than the baseline product. EL 1 represents an 800 series full wattage T5 lamp with basic coating, gas composition, and phosphor mix. EL 2 represents an improved 800 series full wattage T5 lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. Reduced wattage lamps also meet this level. DOE found that no adjustments were necessary for EL 1 and therefore established EL 1 at 93.5 lm/W. For EL 2 representing improved 800 series full wattage T8 lamps, DOE adjusted EL 2 from 98.2 lm/W to 97.1 lm/W based on certification data.

NEMA stated that since the 2010–2011 rare earth crisis, some efficacious phosphors are no longer available and thus many of the high performance T5 lamps currently found in product catalogs that meet the proposed standard level will be removed from the catalogs. Additionally, compliant T5 lamps may also be removed because they do not sell due to high prices. (NEMA, No. 54 at p. 19)

DOE reviewed updated catalogs and certification submissions and confirmed that the 4-foot T5 MiniBP SO and HO lamps analyzed for the final rule were still commercially available. DOE found no indication in manufacturer literature that any T5 lamps were discontinued. When considering available products, DOE relied on information provided by each manufacturer and did not speculate on the future discontinuation of products.

NEMA provided several comments on how the certification data compared to the efficacy levels DOE considered in the NOPR. NEMA acknowledged that the current standard for 4-foot T5 MiniBP SO lamps of 86 lm/W is easily achievable by max tech designs. However, NEMA disagrees with eliminating the manufacturability and marketing of consistently compliant products by setting the minimum efficacy level any higher than 89 lm/W, which is only about 4 percent below the proposed max tech level. (NEMA, No. 54 at p. 26) NEMA stated that the certification data for the 28 W 4-foot MiniBP T5 SO lamps shown in figure 5.3.8 of chapter 5 of the NOPR TSD reflects about a 7 percent spread from 93 lm/W to 100 lm/W and is in agreement with their assessment. (NEMA, No. 54 at p. 26)

For the final rule, DOE updated catalog and certification data for all products. DOE continued to model a baseline lamp that just meets the existing standard level of 86 lm/W, because feedback from stakeholders and manufacturer interviews indicated that manufacturers will likely produce lamps at the existing standard level even if no products are currently available. DOE again identified two levels of efficacy above the baseline. EL 1 represents an 800 series full wattage T5 lamp with basic coating, gas composition, and phosphor mix. EL 2 represents an improved 800 series full wattage T8 lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. Reduced wattage lamps also meet this level. DOE reviewed available certification data and found that no adjustments were necessary for EL 1 and therefore established EL 1 at 93.5 lm/W. For EL 2 representing improved 800 series full wattage T8 lamps, DOE found that a further downward adjustment was necessary and adjusted EL 2 from 98.2 lm/W to 95.0 lm/W. Additional and/or revised certification data reported since the publication of the NOPR indicated that T5 SO lamps had lower efficacies than originally indicated. As described previously in this section, DOE does not believe that catalog or certification data inherently represent values at the high end of a distribution curve and that an efficacy level has to be lowered further in order for products reporting those values to comply.

Four-Foot T5 MiniBP HO

For the NOPR, DOE analyzed one level of efficacy above the baseline level. DOE modeled a baseline that just met the existing standard level of 76 lm/W, as described in section VI.D.2.c. The baseline level represents a lower efficacy full wattage (54 W) lamp. Manufacturer-provided information in catalogs indicates that there is one distinct product line available with an efficacy higher than the baseline product. EL 1 represents an 800 series full wattage T5 lamp with basic coating, gas composition, and phosphor mix. Reduced wattage lamps also meet this level. DOE did not adjust this level based on certification data and is therefore evaluated EL 1 at 82.7 lm/W

in the NOPR. 79 FR at 24104 (April 29, 2014).

NEMA stated that efficacy levels for T5 lamps should not be based on catalog rated efficacy at 35 °C because the industry standard IEC 60081 and the DOE test procedure require measurement at 25 °C. NEMA further noted that there is no ambiguity in the measurement circuit as all T5 lamps are measured on high frequency circuits at 25 °C. (NEMA, No. 54 at pp. 25–26)

DOE agrees that T5 lamps must be tested at 25 °C per DOE's test procedure. However, not all manufacturers provide lumen output data at 25 °C for T5 lamps in their catalogs, whereas all manufacturers provide data at 35 °C. Thus, to consider the entire market DOE developed initial efficacy levels based on 35 °C catalog data for T5 lamps and then adjusted the initial efficacy levels to reflect operation at 25 °C. DOE compared the 25 °C levels to certification data which reflects tested values at the same temperature.

NEMA provided several comments on how the certification data compared to the efficacy level DOE considered in the NOPR. NEMA noted that the spread of certification data from 81 lm/W to 96 lm/W for 54 W 4-foot T5 MiniBP HO lamps indicates variability of 17 percent, which could be explained by the steeper slope of lumen output with ambient temperature at 25 °C for T5 compared to T8 lamps. NEMA stated that the certification data shown in figure 5.3.10 of chapter 5 of the NOPR TSD agreed with its assessment of DOE's certification database. NEMA noted that for the reduced wattage 4-foot T5 MiniBP HO lamps, the certification data was shown mostly to be between 85 and 87 lm/W and with a couple of values well above 90 lm/W. Stating that it is difficult to determine the max tech for this product class, NEMA recommended that DOE set the minimum efficacy level no higher than 80 lm/W. NEMA stated that 80 lm/W would require centering the practical compliant designs near 87 lm/W to avoid statistical non-compliant results. (NEMA, No. 54 at p. 26)

For the final rule, DOE updated catalog and certification data for all products. DOE continued to model a baseline lamp that just meets the existing standard level of 76 lm/W because feedback from stakeholders and manufacturer interviews indicated that manufacturers will likely produce lamps at the existing standard level even if no products are currently available. DOE again identified one level of efficacy above the baseline representing an 800 series full wattage T5 lamp with basic coating, gas composition, and phosphor mix. Reduced wattage lamps also meet this level. Based on catalog data, DOE determined EL 1 to be 82.7 lm/W. DOE reviewed available certification data and found that the reported values did not indicate that any adjustment to the level was necessary. The certification data, as noted by NEMA, is generally higher than the catalog data on which EL 1 is based. As described previously in this section, DOE does not believe that catalog or certification data inherently represent values at the high end of a distribution curve and that an efficacy level has to be lowered further in order for products reporting those values to comply.

h. Scaling to Other Product Classes

As noted previously, DOE analyzes the representative product classes directly. DOE then scales the levels developed for the representative product classes to determine levels for product classes not analyzed directly. For GSFLs, the representative product classes analyzed were all lamp types with CCTs ≤4,500 K, with the exception of 2-foot U-shaped lamps. For the 2-foot U shaped product class DOE scaled the efficacy levels developed for the 4-foot MBP product class.

CCT Scaling

Finding substantial variation in the percent reduction in efficacy associated with increased CCT among product classes, in the NOPR DOE proposed a separate scaling factor for each product class. 79 FR at 24105 (April 29, 2014). Based on its assessment, DOE proposed a 2 percent scaling factor for the 4-foot MBP product class, 3 percent scaling factor for the 2-foot U-shaped product class, 5 percent for the 8-foot SP slimline product class, 2 percent for the 8-foot RDC HO product class, 6 percent for the T5 MiniBP SO product class, and 5 percent for the T5 MiniBP HO product class. DOE verified the scaling factors developed against certification data. Further, DOE confirmed that lamps with CCT greater than 4,500 K will meet the scaled levels.

NEMA stated it is well established in industry that there is a decrease in efficacy of 4–6 percent to go from the common 4,100 K 4-foot MBP lamps to the 5,000 K tri-phosphor lamps and a decrease in efficacy of 6–8 percent to go to the 6,500 K tri-phosphor lamps. NEMA noted that the reduction in efficacy at CCTs greater than 4,500 K becomes more significant when targeting higher efficacy levels. NEMA also contended that the 2009 Lamps Rule was erroneous in allowing only a 1 percent reduction in efficacy for 4-foot MBP lamps with a CCT greater than 4,500 K. NEMA recommended that the scaling factor for high CCT lamps allow a decrease of at least 7 percent to accommodate the average performance of higher CCT lamps and at minimum be reduced by greater than 4 percent unless limited by current regulations. NEMA also noted that European regulations allow for a decrease of 10 percent for high CCT lamps, and CEE specifications allow for a decrease of 4.3 percent for high CCT 4-foot T8 MBP lamps. (NEMA, No. 54 at p. 28)

DOE revised its scaling analysis for CCT in the final rule to use the most recent values submitted to DOE for compliance purposes rather than catalog data. DOE compared certification data for each lamp type to determine the efficacy differences between low and high CCT lamps. The data still demonstrated that the difference in efficacy between low and high CCT lamps varied by lamp type. Therefore, DOE maintained a separate scaling factor for each product class. However, the additional and revised certification data indicated slightly different scaling factors were necessary. Based on its assessment, DOE calculated a 4 percent scaling factor for the 4-foot MBP product class, 2 percent scaling factor for the 2-foot U-shaped product class, 3 percent for the 8-foot SP slimline product class, 4 percent for the 8-foot RDC HO product class, 6 percent for the T5 MiniBP SO product class, and 7 percent for the T5 MiniBP HO product class. DOE applied these scaling factors to the low CCT levels to determine the appropriate levels for high CCT lamps. If applying the scaling factor resulted in an efficacy that was lower than that of the existing standard, DOE maintained the existing standard level to avoid backsliding. (*See* 42 U.S.C. 6295(o)(1)) DOE compared the scaled efficacy levels to available certification data and confirmed that high CCT lamps can meet the analyzed efficacy levels.

Two-Foot U-Shaped Scaling

By comparing certification data for 2-foot U-shaped lamps with equivalent 4-foot MBP lamps, in the NOPR, DOE determined an average efficacy reduction of 6 percent for the 2-foot U-shaped lamps from the 4-foot MBP lamps was appropriate. 79 FR at 24106 (April 29, 2014). DOE confirmed that the technology impacts of the scaled ELs for the 2-foot U-shaped lamps were consistent with those of the proposed ELs for the 4-foot MBP product class.

NEMA stated that only the full wattage 2-foot U-shaped 1⅝-inch lamps and reduced wattage 2-foot U-shaped 6″ lamps can meet the proposed efficacy

levels. NEMA explained that consumers have switched to reduced wattage 2-foot U-shaped 1⅝-inch lamps which serve retail applications and full wattage 2-foot U-shaped 6″ lamps are mainly used in offices for dimming purposes. Therefore, NEMA concluded that the energy savings for the 2-foot U-shaped 1⅝-inch lamps would be negative and increase the energy consumption by 2 W due to the elimination of the reduced wattage versions forcing consumers back to the full wattage version. NEMA stated that DOE should update its energy savings estimates accordingly or adopt the efficacy level at TSL 3, which would allow for both full and reduced wattage 2-foot U-shaped lamps to meet. (NEMA, No. 54 at p. 15, 27) GE also noted that the efficacies of the 2-foot U-shaped class were scaled from the 4-foot MBP class which could indicate an issue with the scaling or the proposed efficacy levels of the 4-foot MBP. (GE, Public Meeting Transcript, No. 49 at p. 61)

DOE revised its scaling analysis for 2-foot U-shaped lamps in the final rule to use the most recent values submitted to DOE for compliance purposes. DOE compared certification data for 2-foot U-shaped lamps of both spacings (*i.e.,* 6-inch and 1⅝-inch leg spacing) with equivalent 4-foot MBP lamps and determined an average efficacy reduction of 8 percent for the 2-foot U-shaped lamps from the 4-foot MBP lamps was appropriate. Thus, DOE applied this scaling factor to the 4-foot MBP levels to determine the appropriate levels for 2-foot U-shaped lamps. If applying the scaling factor resulted in an efficacy that was lower than that of the existing standard, DOE maintained the existing standard level to avoid backsliding. (*See* 42 U.S.C. 6295(o)(1)) DOE compared the scaled efficacy levels to available certification data and confirmed that both types of 2-foot U-shaped lamps can meet with the analyzed efficacy levels.

i. Rare Earth Phosphors

DOE understands a constrained supply of rare earth phosphors may have impacts on the production of higher efficacy fluorescent lamps. DOE also acknowledges that supply and demand of rare earth phosphors should be considered when evaluating amended standards for GSFLs. Thus, in the NOPR analysis, DOE considered a scenario of increased rare earth phosphor prices in the LCC and NIA.

NEMA commented that manufacturers are at risk of not being able to make compliant lamps consistently due to the availability of high efficiency phosphors for GSFLs. If manufacturers cannot consistently produce a product, they will stop making it as with the 130 V IRLs. (NEMA, No. 54 at pp. 13–14)

NEMA noted that the proposed lm/W requirements would increase the use of rare earth oxides (REOs) per lamp. (NEMA, No. 54 at p. 34) Further, NEMA commented that even though it is possible to increase GSFL efficacy with a more efficient mix of REOs, the high material cost of the REOs needed for the small increase in efficacy is still relevant. NEMA commented that DOE should analyze price elasticity and consumer behavior during previous REO shortages, as the ELs DOE proposed in the NOPR would effectively cause another shortage of REOs. (NEMA, No. 54 at p. 34)

Noting that that China appealed World Trade Organization's (WTO's) ruling demanding greater availability of REOs, NEMA stressed that DOE should expect China to raise prices on REOs through various methods; specifically quoting an article from Bloomberg News.[39] NEMA explained that during the last REO shortage, prices increased 400 to 700 percent, and stated that this is cause for DOE to revise their price estimates to raise the upper bounds of potential spiking during periods of criticality to 700 percent of current prices. NEMA further noted that while they cannot make the same supply warnings they provided for the 2009 Lamps Rule, REO availability continues to be an issue and there are significant uncertainties regarding future supplies. (NEMA, No. 54 at pp. 34–35)

NEEP noted that REO prices and availability had improved in the last few years and, according to DOE, would continue to fluctuate. NEEP commented that DOE appropriately weighed the variability of REO prices in the analysis. (NEEP, No. 57 at p. 3)

In April of 2012, several manufacturers were granted exception relief exempting their 700 series T8 lamps from the July 2012 standards for a period of two years. The waiver was granted due to the global supply restrictions on rare earth phosphors, the rising world demand of these phosphors, and the resulting impacts on producing higher efficacy GSFLs. DOE notes that manufacturers, in their applications for exception relief, stated that they expected an improvement in the rare earth market, specifically noting that supplies of key rare earth phosphors used in fluorescent lamps will become more equal to estimated demand beginning in 2014. Manufacturers also stated that the two-year relief would provide time for potential development of additional supplies outside of China, for progress in technology advancements and development of alternative technologies that use lesser amounts of rare earth material, and for the expansion of recycling and reclamation initiatives.[40] Because this waiver expired in 2014, and manufacturers did not reapply for exception relief, DOE does not believe that the availability of high efficiency phosphors will affect manufacturers' ability to consistently produce a product. However, DOE acknowledges that the market for rare earth phosphors is uncertain and therefore continues to analyze in this final rule a scenario of increased rare earth phosphor prices in the LCC and NIA.

3. Incandescent Reflector Lamp Engineering

For IRLs, DOE received several comments on the engineering analysis presented in the NOPR. 79 FR at 24106 (April 29, 2014). Stakeholders provided feedback on DOE's baseline lamps, selection of more efficacious substitutes, max tech level, ELs, scaling, and xenon. The following sections summarize the comments and responses received on these topics, and present the IRL engineering methodology for this final rule analysis.

a. Representative Product Classes

When a product has multiple product classes, DOE identifies and selects certain product classes as representative and analyzes those product classes directly. DOE chooses these representative product classes primarily due to their high market volumes. For IRLs, in the NOPR analysis DOE identified standard spectrum lamps, with diameters greater than 2.5 inches, and input voltage less than 125 V as the representative product class, shown in gray in Table VI.5. 79 FR at 24107 (April 29, 2014). NEMA commented that the only IRLs that still have any meaningful product sales are in the standard spectrum, less than 2.5 inches in diameter, less than 125 V product class. (NEMA, No. 54 at p. 21) Receiving no

[39] Bloomberg News, ''China Maintains Quotas for Heavy Rare Earths, Tungsten,'' June 19, 2014. <*http://www.bloomberg.com/news/2014-06-19/china-maintains-quotas-for-heavy-rare-earths-tungsten.html*>.

[40] *Philips Lighting Company, et al.* OHA Case Nos. EXC–12–0001, EXC–12–0002, EXC–12–0003 (2012). Accessible here: *http://energy.gov/sites/prod/files/oha/EE/EXC-12-0001thru03.pdf.*

other comments, DOE maintained the same IRL representative product classes for the final rule.

TABLE VI.5—IRL REPRESENTATIVE PRODUCT CLASSES

Lamp type	Diameter	Voltage
Standard spectrum	>2.5 inches	≥125
		<125 (representative)
	≤2.5 inches	≥125
		<125
Modified spectrum	>2.5 inches	≥125
		<125
	≤2.5 inches	≥125
		<125

b. Baseline Lamps

Once DOE identifies representative product classes for analysis, it selects baseline lamps to analyze in each representative product class. Typically, a baseline lamp is the most common, least efficacious lamp that meets existing energy conservation standards. DOE reviewed product offerings in catalogs, shipment trends, and information obtained during manufacturer interviews to identify the common characteristics of lamps that meet standards. In the NOPR, DOE identified a PAR38 lamp as the most prevalent lamp shape and diameter in the representative product class. *Id.* at 24109. From all PAR38 lamps with the most common characteristics, DOE selected a lamp that just met existing standards as the baseline: A 60 W halogen lamp with a lifetime of 1,500 hours that utilized a higher efficiency inert fill gas and a higher efficiency reflector coating, and had an efficacy right at the existing standard, $5.9P^{0.27}$. DOE received several comments on its selection of the baseline for IRLs.

GE stated that they agreed that the baseline lamp is representative of its product class. (GE, Public Meeting Transcript, No. 49 at p. 104) However, NEMA commented that a 60 W IRL with a lifetime of 1,000 hours should be the baseline as it is the lowest performing most common product. (NEMA, No. 54 at p. 29) As noted, the baseline is usually representative of the most common, least efficacious lamp that meets existing energy conservation standards. Based on DOE's review of product offerings in catalogs, 1,500 hours is the most common lifetime. Among the covered IRLs product offerings, 1,500-hour lamps comprise 27 percent of offerings while 1,000-hour lamps comprise 12 percent. The 1,500-hour product selected as the baseline lamp in the NOPR performs at the minimum efficacy required by existing standards. Therefore, DOE is maintaining the 1,500-hour lamp as the baseline in the final rule analysis. Table VI.6 summarizes the performance characteristics of the IRL baseline lamp. For further information, see chapter 5 of the final rule TSD.

TABLE VI.6—IRL BASELINE LAMP

Representative product class	Baseline lamp					
	Lamp type	Descriptor	Wattage	Efficacy	Initial light output	Lifetime
			W	*lm/W*	*lm*	*hr*
Standard Spectrum, Voltage <125 V, Diameter >2.5 Inches.	PAR38	Improved Halogen	60	17.8	1,070	1,500

c. More Efficacious Substitutes

DOE selects more efficacious replacements for the baseline lamps considered within each representative product class. DOE considers only design options identified in the screening analysis. In the NOPR, DOE considered substitute lamps that saved energy and, where possible, had a light output within 10 percent of the baseline lamp's light output. *Id.* at 24109. In identifying the more efficacious substitutes, DOE utilized a database of commercially available lamps. DOE identified two higher efficacy, reduced wattage lamps, referred to in this analysis as an HIR lamp with a lifetime of 2,500 hours and an improved HIR lamp with a lifetime of 4,200 hours, as more efficacious substitutes for the baseline lamp. DOE received several comments regarding its choice for the more efficacious substitutes.

NEMA insisted that 3,000-hour and longer lifetimes must be available in the commercial market for the product line to maintain viability, as long life is a consumer-demanded utility. Lamp lifetimes shorter than 3,000 hours for premium and expensive halogen PAR38 lamps would not be sustainable or acceptable in the commercial market. (NEMA, No. 54 at p. 21)

NEMA further explained that the only remaining method to increase IRL efficacy is by shortening their lifetime, and many IRLs are already rated at 1,000 hours. NEMA noted that a 1,000-hour lifetime represents a previous loss of utility from complying with efficacy requirements, and that the shortened lifetime has resulted in public backlash. NEMA warned that with the standards proposed in the NOPR, consumers would lose the utility of lifetime. Using a calculation from *The Science of Incandescence,*[41] NEMA stated that the higher efficacy of EL 1 would result in a 30 percent reduction in lifetime for these lamps, causing a total loss of financial feasibility. (NEMA, No. 54 at pp. 21, 29, 49) Westinghouse remarked that IRLs are already at max tech, and that unlike with GSFLs, there is no opportunity for tradeoffs between efficacy and utility. (Westinghouse,

[41] Vukcevich, Milan R., *Science of Incandescence,* NELA Press, 1992.

Public Meeting Transcript, No. 49 at pp. 54–56)

DOE recognizes that there is an inverse relationship between efficacy and lifetime for IRLs. DOE believes typical lifetimes of IRLs regulated by this rulemaking are between 1,500 and 4,400 hours. In the engineering analysis, DOE only considered lamps with lifetimes greater than or equal to the baseline when selecting representative lamp units. DOE found evidence that improved technology lamps (*i.e.,* HIR lamps) with lifetimes higher than the baseline lifetime are prevalent on the market. Both representative lamp units that DOE selected in the engineering analysis have lifetimes longer than the baseline. While manufacturers can choose to introduce shorter lifetime products in the future, DOE does not require shortening of lamp lifetime to meet any analyzed level. One of the representative units at EL 1 has a lifetime of 4,200 hours. Thus, DOE ensured that products with lifetimes greater than 3,000 hours would be available for consumers desiring longer life products.

NEMA commented that the PAR38 lamp is not an adequately representative lamp and inappropriately skews DOE's analysis because it is the only lamp type in the class that can physically incorporate the largest number of technology options, overstating the possible energy savings. NEMA encouraged DOE to examine smaller diameter lamps to better understand what technology options are feasible. (NEMA, No. 54 at p. 29) As an example, NEMA commented that the lifetime of the PAR30 lamp would have to be shortened to the point of being economically infeasible and unmarketable to consumers to meet standards. (NEMA, No. 54 at pp. 29–30) NEMA could not identify a lamp that met the EL proposed in the NOPR while still providing adequate lifetime in all sizes. Specifically, NEMA stated that the rule proposed in the NOPR would allow only certain PAR38 lamps to meet the regulations and most other types and classes of covered IRLs would be eliminated. NEMA argued, therefore, that the EL proposed in the NOPR is invalid for most lamps. (NEMA, No. 54 at p. 29)

DOE recognizes that in addition to PAR38 lamps, the representative product class also includes PAR30 lamps. Because it is a more common lamp size among the covered IRLs, DOE selected PAR38 as the diameter for the baseline lamp and more efficacious substitutes of the baseline. DOE's research indicates that the design options identified for PAR38 lamps are also applicable to PAR30 lamps. DOE assessed the availability of PAR30 lamps as more efficacious substitutes. DOE found that there are PAR30 lamps with lifetimes of 3,500 and 4,400 hours that are able to achieve the same efficacies as PAR38 lamps. See chapter 5 of the final rule TSD for additional details.

CA IOUs expressed disappointment that there were not multiple efficacy levels representing higher performance products. CA IOUs stated that DOE had restricted itself to a small subset of IRLs by focusing on PAR38 lamps and requiring lumens to be within 10 percent of the baseline lamp, limiting the lumen range to about 963 to 1,170. CA IOUs mentioned that any design strategies used in other lamp types, (*e.g.,* 800-lumen lamp, 1,200-lumen lamp, PAR30 lamp) that improved efficacy would be fairly transferable among lamp types. CA IOUs questioned why DOE did not consider potential efficacy improvements from these lamp types. (CA IOUs, Public Meeting Transcript, No. 49 at pp. 107–109) Specifically, CA IOUs noted four lamps that have better performance than the proposed efficacy level: The GE 60 W PAR HIR Plus operating at 21 lm/W, the Philips PAR38 Energy Halogen DiOptic operating at 20 lm/W, the OSRAM SYLVANIA PAR38 medium-base warm white outdoor halogen flood operating at 20 lm/W, and the OSRAM SYLVANIA PAR38 warm white outdoor halogen flood operating at 21 lm/W. (CA IOUs, Public Meeting Transcript, No. 49 at pp. 107–109, 118)

ASAP also disagreed with DOE's criteria of restricting lumen output to be within 10 percent of the baseline lamp, noting that the NOPR analysis seemed to suggest that DOE understood that technologies used in one lamp to achieve a certain lumen package can be used in another. Therefore, ASAP questioned why DOE rejected a more efficacious technology used in another lamp due to the lumen output of that lamp having a greater than 10 percent difference from the baseline lamp. ASAP stated that DOE should have analyzed the more efficacious technology and used scaling to maintain the baseline lumen output. (ASAP, Public Meeting Transcript, No. 49 at p. 113)

GE, on the other hand, commented that the analysis presented in the NOPR was fairly accurate in terms of addressing and looking at the other potential more efficacious products. GE argued that not all of the lamps proposed by commenters to be more efficacious were within the scope of this rulemaking and not all of the proposed technologies were transferable to covered lamps. (GE, Public Meeting Transcript, No. 49 at p. 112)

DOE used certain criteria when selecting more efficacious substitutes. Specifically, DOE only considered lamps with the same reflector shape as the baseline lamp, wattages less than the baseline wattage, lumens within 10 percent of the baseline lumens, lifetimes equal to or greater than the baseline lifetime, and that were commercially available in the United States or available as prototypes. These criteria ensured that higher efficacy lamps with similar characteristics to the baseline were available to consumers at each efficacy level analyzed.

When establishing efficacy levels, DOE considered all lamps available. DOE reviewed the design options incorporated into each lamp, the ability of lamps across lumen packages to meet the level, and the max tech level. Regarding the four lamps that CA IOUs noted as having better performance than the proposed efficacy level, one of them was part of a product line for which certification data indicated that the product line performed below or much closer to EL 1 than indicated by its catalog data. Another of the lamps was part of a product family for which certification data indicated that product performance was at the existing standard level, or baseline, rather than EL 1. A third lamp in the group of four did not have certification data available for DOE to substantiate its performance claims in catalogs. The fourth lamp did have both catalog and certification data available and that data indicated that it performed above EL 1. However, this lamp was not part of a full product line that would indicate that the technology incorporated in the lamps could be used across all lumen packages. While DOE is aware that it is generally the case that technology can be shared among various lamps, modeling a product allows DOE to estimate lamp performance but not confirm performance via certification data or independent testing, a significant concern in this rulemaking. Furthermore, costs for such a product would be uncertain as it would not be commercially available at the time of the analysis. Therefore, DOE chose not to model a higher efficacy lamp that met its criteria for selecting representative units in the NOPR as well as the final rule analysis.

NEEA commented that, unless the market shares of the 60 W PAR38 and 55 W PAR38 lamps are close to 90 percent of the market, DOE's analysis was incomplete and the more efficacious lamps suggested by CA IOUs need to be analyzed. (NEEA, Public

Meeting Transcript, No. 49 at pp. 111–112)

Through a review of product offerings in catalogs, DOE determined that PAR38 is the most common lamp diameter and 60 W is at least twice as common as any other wattage. Further, DOE did not restrain the representative lamp units to 55 W but rather required that the wattage be less than the baseline. DOE found that the majority of product offerings on the market have wattages at or below 60 W. Thus, DOE finds that the baseline and more efficacious lamp units analyzed represent the most widely offered products on the market. Table VI.7 summarizes the performance characteristics of the more efficacious substitutes for IRLs. For further information see chapter 5 of the final rule TSD.

TABLE VI.7—IRL REPRESENTATIVE LAMPS

Representative product class	Representative Lamps					
	Lamp type	Descriptor	Wattage	Efficacy *	Initial light output	Lifetime
			W	*lm/W*	*lm*	*hr*
Standard Spectrum, Voltage <125 V, Diameter >2.5 Inches.	PAR38	HIR	55	18.5	980	2,500
	PAR38	Improved HIR	55	18.5	1,120	4,200

* Efficacy values are based on data from DOE's certification database.

d. Max Tech

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max tech'') improvements in energy efficiency for IRLs using the design parameters for the most efficient products available on the market or in working prototypes.

For IRLs, DOE presented one efficacy level (EL 1) for consideration in the NOPR analysis. Therefore, this level was also the max tech level identified for IRLs. DOE received several comments on the proposed max tech level.

ASAP and CA IOUs commented that DOE made a mistake in not considering higher ELs for IRLs. ASAP stated that CA IOUs provided reasons for considering higher levels in response to the preliminary analysis and DOE dismissed the suggestions with a ''grab bag'' of unsubstantiated arguments for not considering the higher levels. (ASAP, Public Meeting Transcript, No. 49 at p. 17; CA IOUs, Public Meeting Transcript, No. 49 at p. 20) Further, CA IOUs commented that they do not think that DOE adequately considered alternative technology options they gave in response to the preliminary analysis for a more efficacious max tech. (CA IOUs, Public Meeting Transcript, No. 49 at p. 114) CA IOUs stated that they suggested more efficacious lamps and in not considering them, DOE has not complied with their statutory requirement to investigate max tech. (CA IOUs, Public Meeting Transcript, No. 49 at p. 110) CA IOUs continued that commercially available products were available in different lumen bins or that there were different lamp shapes from PAR38. CA IOUs noted that some of the data they had for support were compliance certification values and some were prototype products from the past or developed recently. (CA IOUs, Public Meeting Transcript, No. 49 at p. 110)

DOE evaluated the more efficacious lamps proposed by stakeholders in response to the preliminary analysis. As discussed in the NOPR, DOE did not consider some of these lamps when evaluating the max tech level because they were not available with the same reflector shapes or input voltage as the IRLs covered by this rulemaking. 79 FR at 24111(April 29, 2014). In addition, as described in section VI.D.3.c, certification data indicates that some lamps are not performing at the high efficacies advertised in catalogs. Absent certification or independent test data, DOE is unable to verify high efficacy claims. Finally, although certain higher efficacy products have certification data confirming their performance above EL 1, they are not part of a full product line that would indicate that the technology incorporated in the lamps could be used across all lumen packages.

Regarding prototype lamps, for the NOPR analysis, DOE contacted manufacturers producing high efficacy prototype IRLs and conducted independent testing of these lamps. The testing indicated that these lamps were more efficacious than the max tech level determined by DOE in this analysis.[42] DOE notes that the lamps tested were prototype lamps and were not manufactured during commercial scale production runs. The measured efficacy of the prototype lamps greatly exceeded the efficacy of commercially available lamps with similar lumen packages. DOE did not, however, have the necessary information to do a cost analysis to determine if an efficacy level based on these lamps would be economically justified. Therefore, in the NOPR phase DOE requested information on the incremental manufacturer production cost of a lamp that could achieve the efficacy of the prototype lamps compared to a lamp that complies with EL 1. DOE also sought information on the manufacturing costs including equipment and product conversion costs necessary to produce lamps at the efficacy of the prototype lamps. However, DOE did not receive any information to conduct a cost assessment of the higher efficacy prototypes and therefore, did not include them in this final rule analysis.

CA IOUs stated that the efficacy standards proposed in the NOPR would not be a challenge and an efficacy standard of more than three times higher, as shown in appendix 5A of the NOPR TSD, would be possible and likely be cost effective. Most manufacturers already have the capability to meet the levels proposed in the NOPR, and the achievement of higher efficacies was proven through the testing of prototype lamps. CA IOUs commended DOE on its tests of prototyped products, but expressed confusion over why DOE did not develop pricing estimates for these products and create a corresponding EL. They also questioned why DOE had not used the comments on projected sale prices given during manufacturer interviews in their analysis. CA IOUs noted that a pricing estimate could also

[42] DOE independently verified efficacy values provided by the manufacturer. At the time of NOPR analysis, the manufacturer was still conducting lifetime testing. DOE did not receive any updates on lifetime testing of the prototype lamps at the time of the final rule analysis.

have been achieved by a teardown analysis of the prototype lamps compared with similar, commercially available components. Specifically, CA IOUs gave the example that lamps using high performance HIR burner are already commercially available in A-line and MR16 bulb shapes, selling for $3.49 and $6.90, respectively. Supported by these analyses, CA IOUs urged DOE to conduct a complete review of the higher efficacy prototype EL. (CA IOUs, No. 56 at p. 5)

As noted in the NOPR, while DOE was able to test the efficacies of the prototype lamps, it had insufficient information to perform a cost analysis. 79 FR at 24111 (April 29, 2014). DOE did not find that a teardown analysis of the prototype lamps would be a feasible method to estimate costs. DOE would be unable to determine through teardowns whether the halogen burners used in various product offerings were the same because of the difficulty in analyzing the IR coating, specifically identifying the combinations of coatings applied. Without this knowledge, DOE could not distinguish the specific technology differences between one halogen burner and another and estimate costs accordingly. Expected retail prices of the prototype lamp were provided through comments and manufacturer interviews, but the information indicated that the prices of the higher efficacy products would be less than those of the lamps that comply with EL 1 and even the baseline. As these lamps utilize a more advanced IR coating than lamps currently available on the market, the manufacturer-provided cost was inconsistent with the available market information. Further, this manufacturer does not distribute covered IRLs in the U.S. market. Therefore, DOE was unable to estimate the price of the prototype lamp by comparing it to a similar lamp offered by the same manufacturer, which would have allowed DOE to isolate the change in price due to the more efficient coating. For these reasons, DOE concluded that it did not have the information needed to conduct a cost assessment of the higher efficacy prototype lamps and therefore, did not include them in this final rule analysis.

e. Efficacy Levels

After identifying more efficacious substitutes for each of the baseline lamps, in the NOPR, DOE developed ELs based on the consideration of several factors, including: (1) The design options associated with the specific lamps being studied; (2) the ability of lamps across wattages to comply with the standard level of a given product class; and (3) the max tech level. 79 FR at 24093 (April 29, 2014).

For IRLs, DOE developed a continuous equation that specifies a minimum efficacy requirement across wattages and represents the potential efficacy a lamp can achieve using a particular design option. DOE observed an efficacy division among commercially available IRL products that corresponded to the design options utilized to increase lamp efficacy. Based on this efficacy division, DOE considered one EL in the NOPR analysis. *Id.* at 24113. DOE received a comment from NEMA regarding the EL presented for IRLs in the NOPR analysis.

NEMA stated that energy conservation standards above the current IRL standards could not be economically justified. NEMA further stated that the $6.2P^{0.27}$ level proposed in the NOPR is inappropriately set at the higher end of the normal distribution curve for performance. Following the CCE rules, if the average performance of the more efficacious lamps is $6.2P^{0.27}$, the standard should be set at $6.0P^{0.27}$. NEMA did note, however, for standard spectrum IRLs under 125 V, it would be possible to consistently produce lamps at a higher efficacy, up to $6.0P^{0.27}$ from $5.9P^{0.27}$, for lamps between 60 W and 205 W. NEMA expressed their belief that only this subset of IRLs could reliably increase their efficacy, and only by that increment. NEMA doubted that this increase would generate significant energy savings on its own. (NEMA, No. 54 at pp. 21–22)

DOE conducted an updated engineering analysis for the final rule and determined that EL 1 corresponded to an efficacy requirement of $6.2P^{0.27}$ based on certification data. DOE notes that the statistics included in the compliance procedures are intended to ensure that manufacturers are reporting a value that approximates the population mean. Each tested lamp is not individually required to meet or exceed the standard level. Designing products such that their population mean or the performance of each individual lamp unit within the population exceeds DOE's standard level is not required and is done so at the discretion of individual manufacturers. Regarding an assessment of national energy savings for IRLs see section VII.B.3. Regarding DOE's conclusion as to whether a standard is economically justified, DOE weighs the benefits and burdens in section VII.C.3.

For the final rule analysis, DOE again reviewed the most updated catalog and certification data available for covered IRLs. As in the NOPR analysis, DOE used the catalog data to identify all products on the market and ensure consideration of all available products in the analysis and assessed both catalog and certification efficacy values to identify efficacy levels. In the NOPR analysis, DOE had found there to be certification data for 51 percent of covered IRL products compliant with the July 2012 standards. For the final rule analysis, DOE found that updates to DOE's certification database resulted in certification data for 61 percent of covered IRL products. While this was an increase from the NOPR analysis, it still did not represent a comprehensive dataset on which to base an engineering analysis. Therefore, in this final rule analysis, DOE again used catalog data to identify all products on the market and ensure consideration of all available products in the analysis. DOE assessed both catalog and certification efficacy values to identify efficacy levels. Using certification data reported for the PAR38 2,500 hour HIR and 4,200 hour improved HIR representative lamps, DOE adjusted EL 1. As mentioned previously, DOE developed a continuous equation that specifies a minimum efficacy requirement across wattages for IRLs. The EL that DOE determined based on the representative lamps is a curve that represents a standard across all wattages.

Table VI.8 presents the efficacy level for IRLs. See chapter 5 of the final rule TSD for additional information on how the engineering analysis was conducted.

TABLE VI.8—EFFICACY LEVELS FOR STANDARD SPECTRUM, VOLTAGE < 125 V, DIAMETER > 2.5 INCHES IRLS

Efficacy level	Efficacy requirement *lm/W*
EL 1	$6.2P^{0.27}$

P = rated wattage

f. Scaling to Other Product Classes

When more than one product class exists for a covered product, DOE identifies and selects representative product classes to analyze directly. Efficacy levels developed for these representative product classes are then scaled to products not analyzed directly. For IRLs, DOE analyzed directly standard spectrum lamps greater than 2.5 inches in diameter and with input voltages less than 125 V. The efficacy levels developed for this representative product class were then scaled to product classes not analyzed, using a scaling factor to adjust levels for smaller diameter lamps, lamps with higher

input voltages, and modified spectrum lamps. DOE received several comments specific to the scaling factors applied to develop efficacy levels for the product classes analyzed directly.

Diameters Less Than or Equal to 2.5 Inches

In the NOPR analysis, DOE scaled from the EL developed for IRLs with diameters greater than 2.5 inches (hereafter ''large diameter lamps'') to IRLs with diameters less than or equal to 2.5 inches (hereafter ''small diameter lamps''). Based on catalog data, DOE determined the reduction in efficacy caused by the smaller lamp diameter to be approximately 12 percent. DOE also determined that the more efficient double-ended HIR burners could not fit into small diameter lamps without extending the reflector lens. Therefore, in the NOPR analysis, DOE applied an additional 3.5 percent reduction to account for the ability of small diameter lamps to utilize only less efficient single-ended HIR burners.

CA IOUs noted that small diameter lamps are less efficacious than larger lamps and agreed with DOE's scaling factor as appropriate, except for the 3.5 percent to account for double-ended burners, as CA IOUs believed that small diameter lamps are capable of utilizing these burners. CA IOUs stated that DOE had not provided enough analysis on the potential issue that fitting double-ended burners in a small diameter lamp would change the physical shape of the lamp and thereby impact whether these lamps can fit in fixtures in which they are currently used. CA IOUs questioned if DOE had collected data on the various lengths of small diameter lamps on the market. CA IOUs noted that they have found R20 lamps with single-ended burners that range in length from 3.1 to 4.2 inches. They stated that the R20 lamp with a double-ended burner they submitted to DOE was 3.5 inches long, and therefore still in the typical R20 range. (CA IOUs, Public Meeting Transcript, No. 49 at pp. 124–126, 128–129)

OSI commented that, in general, technologies used in PAR30 lamps cannot be used in PAR20 lamps. (OSI, Public Meeting Transcript, No. 49 at p. 127) OSI noted that luminaire manufacturers construct luminaires for the actual lamp length on the market, not to the ANSI specifications for the bulb shape. OSI clarified, therefore, that a lamp longer than what is otherwise on the market would not fit in luminaires, regardless of whether it still met the ANSI requirements for the bulb shape. (OSI, Public Meeting Transcript, No. 49 at pp. 128–129) GE agreed and added that a small increase in lamp length would not matter for certain luminaires, such as a track lighting fixture, but that DOE could not assume the new design would fit in all existing fixtures. (GE, Public Meeting Transcript, No. 49 at p. 125) OSI explained that fitting the lamp with the double-ended burner into the luminaire would not be the only problem, DOE should also consider the temperature limits that the double-ended burner might force the lamp to exceed. (OSI, Public Meeting Transcript, No. 49 at p. 127) NEMA commented that lamps need to be designed to match the physical shape of the luminaires in the market. (NEMA, No. 54 at p. 49)

DOE must consider how the use of a design option affects product utility and whether a more efficacious product is an appropriate substitute for an existing less efficacious product. (42 U.S.C. 6295(o)(2)(B)(i)) DOE confirmed that a double-ended burner was present in the small diameter (PAR20) prototype lamp mentioned previously and also in a commercially available PAR20 lamp that is outside the scope of this rulemaking. However, manufacturers noted that fitting a double-ended burner into a small diameter lamp requires changes to the physical shape of the lamp, specifically requiring an extension of the reflector lens. (NEMA, no. 36 at p. 12; GE, Public Meeting Transcript, No. 49 at p. 125) While the modified lamp may still meet ANSI standards for a small diameter lamp such as a PAR20, it would be larger than PAR20 lamps sold in the past and those currently installed. Because the lamp shape would be different from the standard sizes of commercially available small diameter lamps, the modified lamp may not fit in existing structures. DOE conducted an analysis by comparing lengths of small diameter lamps to existing fixtures. The lengths of lamps with double-ended burners varied and DOE cannot state with certainty that these lengths will fit in all fixtures. Further, within the wattage range of lamps covered by this rulemaking (40 W or higher), heat dissipation in lamps with a smaller envelope using a double-ended burner could also become an issue. Additionally, manufacturer feedback indicated that even if the double-ended burner could fit into a small diameter lamp, it would be difficult to place the burner/filament in the optimal position such that the benefits in efficacy could be realized.

Therefore, in this final rule DOE continued to apply an additional 3.5 percent reduction factor when scaling efficacies of large diameter to small diameter lamps to account for the ability of small diameter lamps to utilize only single-ended burners.

Operating Voltages Greater Than or Equal to 125 Volts

In the NOPR analysis, DOE scaled from IRLs with voltages less than 125 V to IRLs with voltages greater than or equal to 125 V. DOE developed a scaling factor that would require 130 V lamps operating at 120 V [43] to use the same technology and possess the same general performance characteristics as 120 V lamps operating at 120 V. DOE found that while there may be a slight decrease in efficacy, the lifetime of a 130 V lamp is doubled when it is operated at 120 V, giving it an advantage over 120 V lamps. Using the Illuminating Engineering Society of North America (IESNA) Lighting Handbook equations that relate lifetime, lumens, and wattage to voltage of incandescent lamps, DOE determined that a 15 percent scaling factor was necessary.

NEMA commented that in the 2009 Lamps Rule, DOE set a level for 130 V lamps which was approximately 15 percent higher than achievable with the maximum available technology. NEMA argued that, as the efficacy of 130 V lamps is actually slightly lower than 120 V lamps, the only way to achieve such efficacy levels is to greatly shorten lamp life to less than 500 hours even if a 130 V lamp was operated on 120 V. If the consumer had a high voltage problem and was operating near 130 V, the lamp life would be shortened to a few hundred hours. In both scenarios, very short life products are unmarketable to the consumer, especially for 130 V consumers who were primarily buying the lamp due to its long life on 120 V operation during voltage fluctuations. Giving the example of the 130 V IRL, NEMA commented that DOE is incorrect in its assumptions that no utility would be lost with higher IRL standards. Specifically, NEMA explained that 130 V IRLs were able to operate under elevated voltage spike and transient conditions, and are now eliminated from the market due to the 2009 Lamps Rule standards. (NEMA, no. 54 at p. 48)

Philips commented that the scaling factor used for any new 130 V lamp standards would not matter as the lamp is already out of the market. (Philips, Public Meeting Transcript, No. 49 at p. 123) GE commented that the max tech for 120 V and 130 V lamps are almost identical, so the 15 percent scaling factor used to scale between the two

[43] While a 130 V lamp is typically operated at 120 V, DOE test procedures require that lamps rated at 130 V be tested at 130 V.

lamps in the 2009 Lamps Rule is responsible for eliminating 130 V lamps from the marketplace, along with its utility. (GE, Public Meeting Transcript, No. 49 at p. 123)

DOE has not found evidence that more efficacious 130 V IRLs are not technologically feasible or practicable to manufacture. DOE research indicates that the basic structure, components, and operating requirements of these lamps do not prevent the application of design options considered in the engineering analysis to achieve EL 1. Therefore, in this final rule analysis, DOE continued to determine a higher efficacy level for these lamp types.

Further, DOE remains concerned, that the operation of 130 V lamps at 120 V has the potential to significantly affect energy savings. DOE's research has shown that 130 V lamps are usually operated by consumers at 120 V rather than on a higher voltage line. This could incentivize manufacturers to design a less efficient and less expensive 130 V lamp that would meet standards when tested at 130 V. Because they would be cheaper, there could be a market migration to 130 V lamps and due to the lower lumen output when 130 V lamps are operated at 120 V, consumers may purchase more 130 V lamps, resulting in increased energy consumption.

DOE's research indicates that operating 130 V lamps at 120 V increases lifetime and lowers efficacy compared to operating these lamps at 130 V. Therefore, to develop an appropriate scaling factor, DOE determined the efficacy of 130 V lamps operated at 120 V if their additional lifetime over that of 120 V lamps were instead used to increase their efficacy. DOE found this increase in efficacy to be 15 percent. Therefore in this final rule analysis, DOE is using a scaling factor of a 15 percent efficacy increase from an IRL with voltages less than 125 V to voltages greater than or equal to 125 V.

Modified Spectrum

In the NOPR analysis, DOE established ELs for modified spectrum IRLs by scaling from the ELs developed for the standard spectrum product class. DOE determined that a reduction of 15 percent from the standard spectrum ELs would be appropriate for modified spectrum IRLs.

EEOs cited a 2009 study by Ecos Consulting which found a 9–11 percent light loss associated with IRL modified spectrum lenses, and recommended either eliminating the allowance altogether or reducing it to 10 percent. (EEOs, No. 55 at p. 7)

Regarding the use of a 15 percent scaling factor from standard spectrum to modified spectrum IRLs, DOE based this determination on both its understanding of the differences in characteristics and performance of these two lamp types. In the 2009 Lamps Rule, DOE assessed the efficacy differences between standard and modified spectrum IRLs by measuring the efficacies of commercially available standard and modified spectrum lamps. 74 FR 34080 (July 14, 2009). In that analysis, DOE correlated the measured color point data of the lamps with lamp light output reduction and lamp spectral power distribution. By analyzing the data, DOE established that a reduction of 15 percent from the standard spectrum to modified spectrum lamps was necessary. Using the available data for standards-compliant modified spectrum lamps on the market, DOE compared the efficacies of these two lamps with standard spectrum lamps with the same wattage and lifetime by the same manufacturer, and confirmed a 15 percent reduction in efficacy from a modified spectrum lamp to a standard spectrum lamp. Therefore, DOE maintained a 15 percent efficacy reduction from a standard spectrum IRL to a modified spectrum IRL for this final rule.

g. Xenon

DOE identified higher efficiency inert fill gas as a design option for improving lamp efficacy of IRLs. Specifically, xenon, due to its low thermal conductivity, can greatly increase lamp efficacy and is utilized in most covered standards-compliant IRLs.

NEMA commented that the scarcity of xenon makes it questionable that IRL products will be able to comply with the proposed standards just by adding more xenon to the lamp burners. NEMA stated that due to a xenon shortage last year manufacturers had to reduce the use of xenon. NEMA explained that the remaining efficacy margin under current standards allows continued production of IRLs during xenon shortages. Further, NEMA noted that the big xenon producing companies have not expanded their production capacity as much and there is high demand and limited production capacity for this gas. (NEMA, No. 54 at p. 35) NEMA remarked that DOE's xenon price analysis ignores xenon shortages. (NEMA, No. 54 at p. 11) Further, NEMA stated the current high cost of xenon is at 13 Euros per liter compared to its previously low price in early 2013. NEMA predicted that xenon prices would not drop again and instead continue to increase with the increased number of incandescent A-line replacement lamps (which also utilize xenon). (NEMA, No. 54 at p. 35)

NEMA warned that manufacturers are at risk of not being able to make compliant lamps consistently due to the availability of xenon for IRLs, and if are unable to do so, they will stop making them, as they did with the 130 V IRLs. (NEMA, No. 54 at pp. 13–14) NEMA reported that a member's global buyer for noble gases had reported that xenon availability is at a minimum. NEMA concluded that the EL should be reduced due to the unavailability of xenon and noted that lighting legislation hugely affects the supply and demand of xenon. (NEMA, No. 54 at p. 35)

DOE acknowledges that xenon supply and prices are important factors for IRLs. Therefore, in the NOPR analysis DOE conducted a market assessment of xenon supply, demand, and prices as well as LCC and NIA sensitivities to determine the impact of increased end user lamp prices due to increases in the price of xenon. DOE updated this market and price assessment as well as the sensitivities for the final rule analysis.

Based on this research, DOE determined that even if there are short term shortages of xenon, the long term supply of xenon is stable due to its availability in the air. Thus, supply could be increased to meet a continued increase in demand. DOE acknowledges that the supply of xenon cannot be quickly altered in the short term, and therefore conducted a sensitivity analysis to determine the impact of an increased price of xenon. In the final rule analysis, using NEMA's estimation of the current price of xenon, DOE updated the xenon price utilized in the LCC sensitivity analysis from $10 per liter to $18 per liter. Based on the results of this analysis, DOE determined that positive LCC savings could still be achieved at EL 1 with higher xenon prices. Additionally, in the NIA, DOE performed an alternative analysis in which the price of xenon is assumed to increase by a factor of ten in the near future and remain at these elevated levels throughout the analysis period. The impacts of the modeled xenon price increase on the NES and NPV of this rulemaking were minimal. See appendix 7C of the final rule TSD for complete details on the xenon price sensitivity conducted in the LCC, and chapter 12 of this final rule TSD for details on the xenon price sensitivity conducted in the NIA.

h. Proprietary Technology

In response to the EL (and max tech) proposed for IRLs in the NOPR, DOE

received several comments regarding proprietary technology. 79 FR at 24111 (April 29, 2014). NEMA stated that processes for silver, the best higher efficiency reflector coating, are patent-protected intellectual property (IP). (NEMA, No. 54 at p. 21)

While DOE had determined in the 2009 Lamps Rule that the silver reflector was patented technology, DOE research indicated that there were alternate pathways to achieve this level, such as filament redesign to achieve higher temperature operation (thus reducing the lifetime), non-proprietary higher efficiency reflectors, and a higher efficiency IR coating. 74 FR 34080, 34133 (July 14, 2009). For this rulemaking, in interviews conducted in the preliminary analysis, manufacturers indicated that there were no specific patent or intellectual property barriers to obtaining commercially available IRL technologies. Further, for the NOPR analysis, DOE confirmed during interviews that proprietary technology is not a barrier to achieving the proposed max tech level. Therefore, DOE has concluded that several manufacturers have found means of designing more efficacious IRLs that are commercially available, such as through the use of IR glass coatings and higher efficiency reflector coatings that do not use proprietary technology. Hence, the EL for IRLs in this final rule is based on a commercially available improved HIR lamp that does not require proprietary technology to achieve its efficacy. Therefore, DOE has determined that this level can be achieved without the use of proprietary technology.

E. Product Pricing Determination

Typically, DOE develops manufacturer selling prices (MSPs) for covered products and applies markups to create end-user prices to use as inputs to the LCC analysis and NIA. Because GSFLs and IRLs are difficult to reverse-engineer (*i.e.,* not easily disassembled), DOE did not use this approach to derive end-user prices for the lamps covered in this rulemaking.

In the NOPR analysis, DOE gathered publicly available lamp pricing data after the compliance date of the July 2012 standards. 79 FR at 24116 (April 29, 2014). Based on feedback from manufacturer interviews, DOE determined that GSFLs and IRLs are sold through three main channels (state procurement; large distributors, including do-it-yourself (DIY) stores [*i.e.,* Lowe's and Home Depot]; and Internet retailers). Using these main channels and the pricing data, DOE developed three different end-user prices as representative of a range of publicly available prices: low, based on the state procurement channel; medium, based on large distributors and DIY stores; and high, based on Internet retailers. DOE then developed an end-user price weighted by distribution channel. Using manufacturer feedback in interviews, DOE determined an aggregated percentage of shipments that go through each of the main channels for GSFLs and IRLs. The large distributors and DIY stores channel was estimated at 85 percent, the state procurement channel at 10 percent, and the Internet retail channel at 5 percent. DOE then applied these percentages respectively to the average medium price determined for large distributor and DIY stores, the average low price determined for state procurement contracts, and the average high price determined for Internet retailers. The sum of these weighted prices was used as the average consumer price for GSFLs and IRLs in the main LCC analysis and NIA. DOE continued to utilize the low prices and high prices in a sensitivity analysis in the LCC analysis. DOE received several comments on the pricing analysis.

GE remarked that the pricing methodology presented in the NOPR is a reasonable approach. (GE, Public Meeting Transcript, No. 49 at pp. 130–131) CA IOUs agreed that the pricing methodology is appropriate for GSFLs but not for IRLs, as the latter is predominantly purchased through retail channels for homes and small businesses instead of through distributors or state procurements. (CA IOUs, Public Meeting Transcript, No. 49 at p. 131; NEEA, Public Meeting Transcript, No. 49 at pp. 131–132)

DOE's assessment of the GSFL and IRL markets indicated that there are three main distribution channels. Of these three, DOE determined that the majority of volume goes through the large distributors and DIY stores and assigned it an 80 percent weighting. Because this channel includes stores such as Home Depot and Lowes in addition to distributors, it encompasses channels through which residential and small business consumers are more likely to make their purchases. Additionally, DOE determined that while the volume may be low, IRLs are included in state procurement contracts; therefore, DOE included them as a distribution channel and assigned them a low weighting.

In the final rule analysis, DOE used the same methodology as described for the NOPR analysis. For the final rule, DOE scaled the prices from 2012$ to 2013$ in the LCC analysis and NIA, using the ratio of the 2013 consumer price index (CPI) and 2012 CPI multiplied by the 2012$ price. See chapter 7 of the final rule TSD for further information on the pricing analysis.

F. Energy Use

For the energy-use analysis, DOE estimated the energy use of lamps in the field (*i.e.,* as they are actually used by consumers). The energy-use analysis provided the basis for other DOE analyses, particularly assessments of the energy savings and the savings in consumer operating costs that could result from DOE's adoption of amended standard levels.

1. Operating Hours

In the NOPR, to develop annual energy-use estimates, DOE multiplied annual usage (in hours per year) by the lamp power (in watts) for IRLs and the lamp-and-ballast system input power (in watts) for GSFLs. *Id.* at 24117. DOE characterized representative lamp or lamp-and-ballast systems in the engineering analysis (see section VI.D). To characterize the country's average use of lamps for a typical year, DOE developed annual operating hour distributions by sector, using data published in the 2010 U.S. Lighting Market Characterization report (2010 LMC),[44] the Commercial Building Energy Consumption Survey (CBECS),[45] the Manufacturer Energy Consumption Survey (MECS),[46] and the Residential Energy Consumption Survey (RECS).[47] *Id.* at 24118. DOE did not receive any comments on this subject and maintained this approach for determining operating hours for this final rule. DOE updated the MECS data to 2010 data.[48]

[44] U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy. Energy Conservation Program for Consumer Products: 2010 U.S. Lighting Market Characterization. 2012. Washington, DC. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

[45] U.S. Department of Energy, Energy Information Administration. Commercial Building Energy Consumption Survey: Micro-level data, file 2 Building Activities, Special Measures of Size, and Multi-building Facilities. 2003. Washington, DC. *www.eia.gov/consumption/commercial/data/2003/index.cfm?view=microdata.*

[46] U.S. Department of Energy, Energy Information Administration. Manufacturing Energy Consumption Survey, Table 9.1: Enclosed Floorspace and Number of Establishment Buildings. 2006. Washington, DC. *www.eia.gov/consumption/manufacturing/data/2006/xls/Table9_1.xlsl.*

[47] U.S. Department of Energy, Energy Information Administration. RECS Public Use Microdata files. 2009. Washington, DC. *www.eia.gov/consumption/residential/data/2009.*

[48] U.S. Department of Energy, Energy Information Administration. Manufacturing Energy Consumption Survey, Table 9.1: Enclosed Floorspace and Number of Establishment Buildings.

2. Lighting Controls

DOE evaluated the impact of lighting controls on the energy use of GSFLs and IRLs. Most lighting controls have one of two impacts: reducing operating wattage or reducing operating hours. DOE refers to these two groups of controls as dimmers or light sensors, and occupancy sensors, respectively. The calculated operating hours used in the reference case already account for the use of occupancy sensors because the 2010 LMC operating hour data are based on building surveys and metering data. In the NOPR analysis, DOE accounted for the use of dimmers or light sensors by modeling GSFLs and IRLs on dimmers and developing associated energy-use results for both types of covered lamps as a sensitivity analysis. See appendix 6A of the final rule TSD for further information.

DOE received an overall comment regarding its approach to lighting controls for GSFLs and IRLs. Westinghouse suggested that DOE separate dimming percentages between IRLs and GSFLs because in the commercial sector, GSFLs are generally dimmed more often and IRLs are on simple switch circuits, and in the residential sector, IRLs are frequently dimmed and GSFLs are almost never dimmed. (Westinghouse, Public Meeting Transcript, No. 49 at p. 142)

DOE agrees with Westinghouse that GSFLs and IRLs are used differently and that usage varies depending on the market sector. DOE calculated separate dimming percentages for GSFL and IRL and for each market sector in which they are present. The following sections discuss these percentages in more detail.

a. General Service Fluorescent Lamp Lighting Controls

In the NOPR, DOE assessed the impacts of dimmers on GSFLs by determining the reduction in system lumen output and system input power as a result of using dimming ballasts. *Id.* Based on product research and manufacturer feedback, DOE analyzed dimming scenarios for 2-lamp 4-foot MBP systems, 4-lamp 4-foot MBP systems, 2-lamp 4-foot T5 MiniBP SO systems, and 2-lamp 4-foot T5 MiniBP HO systems operating in the commercial and industrial sectors. DOE did not analyze dimmable GSFL systems in the residential sector because DOE believes these systems are rarely dimmed. DOE determined that the average reduction of system lumen output for GSFLs was 33 percent, based on research and manufacturer input. DOE did not receive any comments on this approach to analyzing GSFL dimming and therefore maintained this approach in the final rule.

b. Incandescent Reflector Lamp Lighting Controls

In the NOPR analysis, DOE research indicated that, on average, consumers using dimmers reduce lamp wattage by 20 percent, corresponding to a lumen reduction of 25 percent and an increase in lifetime by a factor of 3.94. *Id.* at 24119. DOE analyzed two scenarios in LCC sensitivity analyses: (1) The light output of the baseline lamp was reduced by 25 percent and more efficient lamps were dimmed to the same light output and (2) the characteristics of the lamps analyzed represented the distribution of dimmers across the nation. For the second scenario, DOE used the 2010 LMC to determine that 29 percent of halogen IRLs operate on dimmers or light sensors in the residential sector and 5 percent of halogen IRLs operate on dimmers in the commercial sector and used these percentages to calculate weighted-average performance characteristics. DOE received several comments on its approach to analyzing IRL dimming.

Philips disagreed with only 5 percent dimming in the commercial sector, stating that given the 30-year analysis period, this percentage is understated. Philips specifically referenced California's new requirements for dimming in all renovations and new buildings and American Society of Heating, Refrigerating and Air Conditioning Engineers' (ASHRAE's) support of these measures driving increased dimming prevalence across the country. (Philips, Public Meeting Transcript, No. 49 at pp. 137–138) NEEA agreed with Philips that 5 percent dimming for the commercial sector is too low and added that the 29 percent dimming DOE used for the residential sector is far too high. Westinghouse also questioned the 29 percent dimming estimate for the residential sector noting that if the percentage was for residential IRLs only, it may be representative but was too high for GSFLs as homeowners tend not to dim those lamps. (Westinghouse, Public Meeting Transcript, No. 49 at p. 141)

To update DOE's numbers, NEEA suggested a report they had completed on a 13-month residential metering study that studied 2,200 sensors in 103 houses by fixture type, technology, and room. NEEA explained that their data include the wattage of the lamp, the controls on the socket, the number of lamps per fixture, the number of lamps per switch, the type of fixture, and room in which it is located. NEEA suggested that the data contain enough samples to characterize residential lighting in the four states included. NEEA also mentioned a census they conducted across 1,400 houses that gathered the same data, which can then be applied across the entire region. NEEA sent a summary of the data to DOE for immediate use, and stated that the rest of the data would be available for download on NEEA's and NEMA's Web sites. (NEEA, Public Meeting Transcript, No. 49 at pp.138, 140)

Regarding the accuracy of the percentages, the 29 percent of lamps on dimmers was applied to IRLs for the residential sector analysis and the 5 percent of lamps on dimmers was applied to IRLs for the commercial sector. As noted, these values are based on the 2010 LMC and DOE believes are an accurate representation of the percentage of IRLs on dimmers in each sector. Regarding the potential increase in percentage, while the percentage of occupancy sensors may increase, DOE assumed that the percentage of IRLs on dimmers will remain relatively constant because dimmers provide utility for consumers beyond energy savings. DOE also reviewed NEEA's data, but ultimately maintained the methodology described above because NEEA's data is limited to the Northwest region while the 2010 LMC lighting controls data is based several building audit studies, spanning several geographic regions and years of data collection, which was then scaled based an inventory of lighting at the national level. Therefore, for this final rule, DOE maintained its methodology for analyzing dimming for IRLs.

G. Life-Cycle Cost Analysis and Payback Period Analysis

In the NOPR analysis, DOE conducted LCC and PBP analyses to evaluate the economic impacts of proposed energy conservation standards for GSFLs and IRLs on individual consumers. 79 FR at 24119 (April 29, 2014). The LCC is the total consumer expense over the life of a product, consisting of purchase, installation, and operating costs (operating costs are expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounted future operating costs to the time of purchase and summed them over the lifetime of the product. The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more efficient product through lower operating costs. DOE calculates the PBP by dividing the

2010. Washington, DC. *http://www.eia.gov/consumption/manufacturing/data/2010/.*

change in purchase cost (normally higher) by the change in average annual operating cost (normally lower) that results from the higher efficiency standard. DOE used a ''simple'' PBP for this rulemaking, which does not take into account other changes in operating expenses over time or the time value of money.

For any given efficacy or energy-use level, DOE measures the PBP and the change in LCC relative to an estimated base-case product efficacy or energy-use level. The base-case estimate reflects the market without new or amended mandatory energy conservation standards, including the market for products that exceed the current energy conservation standards.

Inputs to the calculation of total installed cost include the cost of the product—which includes consumer product price 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, discount rates, and the year in which compliance with proposed standards would be required. DOE also incorporated a residual value calculation to account for any remaining lifetime of lamps at the end of the analysis period. The residual value is an estimate of the product's value to the consumer at the end of the LCC analysis period. In addition, this residual value recognizes that a lamp may continue to function beyond the end of the analysis period. DOE calculates the residual value by linearly prorating the product's initial cost consistent with the methodology described in the *Life-Cycle Costing Manual for the Federal Energy Management Program.*[49]

As inputs to the PBP analysis, DOE used the total installed cost of the product to the consumer for each efficacy level, as well as the first-year annual operating costs for each efficacy level. The calculation requires the same inputs as the LCC, except for energy price trends and discount rates; only energy prices for the year in which compliance with any new standard would be required (2018, in this case) are needed.

To account for uncertainty and variability, DOE created value distributions for inputs as appropriate, including operating hours, electricity prices, discount rates and sales tax rates, and disposal costs. For example, DOE created a probability distribution of annual energy consumption in its energy-use analysis, based in part on a range of annual operating hours. The operating hour distributions capture variation across census divisions and large states, building types, and lamp or lamp-and-ballast systems for three sectors (commercial, industrial, and residential).

DOE conducted the LCC and PBP analyses using a spreadsheet model developed in Microsoft Excel. When combined with Crystal Ball (a commercially available software program), the spreadsheet model generates a Monte Carlo simulation [50] to perform the analysis by incorporating uncertainty and variability considerations. The Monte Carlo simulations randomly sample input values from the probability distributions and lamp user samples, performing 1,000 iterations per simulation run.

DOE did not receive any comments on the general methodology regarding the LCC and PBP assessment. In the final rule analysis, DOE generally maintained the methodology from the NOPR analysis, with a few changes. Table VI.9 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations for the NOPR, as well as the changes made for this final rule. The final rule TSD chapter 8 and its appendices provide details on the spreadsheet model and of all the inputs to the LCC and PBP analyses. The final rule TSD appendix 8B provides results of the sensitivity analyses conducted using Monte Carlo simulation. The subsections that follow discuss the comments regarding each initial input and any changes made to them in the final rule analysis.

TABLE VI.9—SUMMARY OF INPUTS AND KEY ASSUMPTIONS IN THE LCC AND PBP ANALYSES *

Inputs	NOPR TSD	Changes for the Final Rule
Consumer Product Price	Applied discounts to manufacturer catalog (''blue book'') pricing in order to represent low, medium, and high prices for all lamp categories. Used a weighted-average price in the main analysis based on the percentage of shipments that go through the distribution channel having low, medium, or high prices.	No change.
Sales Tax	Derived sector-specific average tax values based on the probability of purchasing a GSFL or IRL in each census division and large state from data provided by the Sales Tax Clearinghouse.	No change.
Installation Cost	Derived costs using the RS Means Electrical Cost Data and U.S. Bureau of Labor Statistics to obtain average labor times for installation, as well as labor rates for electricians and helpers based on wage rates, benefits, and training costs.	No change.
Annual Operating Hours	Determined operating hours by associating operating hours for a GSFL or IRL in a specific building type using the average lamps per square foot and the percentage of lamps of each type with regional distributions of various building types using the 2010 LMC and EIA's 2003 CBECS, 2009 RECS, and 2006 MECS.	Updated MECS data to 2010 data.

[49] Fuller, Sieglinde K. and Stephen R. Peterson. *National Institute of Standards and Technology Handbook 135 (1996 Edition); Life-Cycle Costing Manual for the Federal Energy Management Program.* (Prepared for U. S. Department of Energy, Federal Energy Management Program, Office of the Assistant Secretary for Conservation and Renewable Energy.) February 1996. NIST: Gaithersburg, MD. Available at: *http://fire.nist.gov/bfrlpubs/build96/PDF/b96121.pdf.*

[50] Monte Carlo simulations model uncertainty by utilizing probability distributions instead of single values for certain inputs and variables.

TABLE VI.9—SUMMARY OF INPUTS AND KEY ASSUMPTIONS IN THE LCC AND PBP ANALYSES *—Continued

Inputs	NOPR TSD	Changes for the Final Rule
Product Energy Consumption Rate.	Determined lamp input power for IRLs based on published manufacturer literature. Calculated system input power for GSFLs. Used lamp arc power, catalog BF, number of lamps per system, and tested BLE (when possible) to calculate system input power for each unique lamp-and-ballast combination.	No change.
Electricity Prices	Electricity: Based on EIA's Form 861 data for 2011 scaled to 2012 (the dollar year of the analysis) using *AEO 2013* and the consumer price index. Variability: Weighted-average national price for each sector and lamp type calculated from the probability of a GSFL or IRL purchased in each census division or large state.	Electricity: Based on EIA's Form 861 data for 2012 scaled to 2013 (the dollar year of the analysis) using *AEO 2014* and the consumer price index. Variability: No change.
Electricity Price Projections	Forecasted using *AEO 2013*	Forecasted using *AEO 2014.*
Replacement and Disposal Costs	Commercial and industrial: Included labor and materials costs for lamp replacement, and disposal costs for failed GSFLs. Residential: Included only materials cost for lamps, with no lamp disposal costs.	No change.
Product Lifetime	Ballast lifetime based on average ballast life of 49,054 from 2011 Ballast Rule. Lamp lifetime based on published manufacturer literature where available.	No change.
Discount Rates	Commercial and industrial: Derived discount rates using the cost of capital of publicly traded firms in the sectors that purchase lamps, based on data in the 2003 CBECS, Damodaran Online,[51] Office of Management and Budget (OMB) Circular No. A–94,[52] and state and local bond interest rates.[53] Residential: Derived discount rates using the finance cost of raising funds to purchase lamps either through the financial cost of any debt incurred to purchase product or the opportunity cost of any equity used to purchase equipment, based on the Federal Reserve's Survey of Consumer Finances data[54] for 1989, 1992, 1995, 1998, 2001, 2004, 2007, and 2010.	No change.
Analysis Period	IRLs and commercial and industrial GSFLs: Based on the baseline lamp life in hours divided by the annual operating hours of that lamp. Residential GSFLs lamp failure: Based on the lifetime of the ballast. Residential GSFLs ballast failure and new construction/renovation: Based on the lifetime of the ballast.	No change.
Compliance Date of Standards	2017	2018.
Lamp Purchase Events	Assessed three events: lamp failure, ballast failure (GSFLs only), and new construction/renovation.	No change.

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the final rule TSD.

1. Consumer Product Price

In the NOPR, DOE used a variety of sources to develop consumer product prices, including lamp prices from manufacturers' blue books, state procurement contracts, large electrical supply distributors, hardware and home improvement stores, Internet retailers, and other similar sources. 79 FR at 24122 (April 29, 2014). DOE then developed low, medium, and high prices based on its findings. DOE calculated a weighted-average price based on the percentage of shipments going through the low discount (high price), medium discount (medium price), and high discount (low price) distribution channels. Because fluorescent lamps operate on a ballast in practice, DOE analyzed lamp-and-ballast systems in the engineering analysis and therefore also determined end-user prices for ballasts. DOE utilized the end-user prices from the 2011 Ballast Rule converted to 2012$ to develop prices for replacement ballasts. In the final analysis, DOE maintained the same methodology, but converted the prices to 2013$ instead of 2012$. For further discussion regarding end-user prices, see section VI.E.

On February 22, 2011, DOE published a notice of data availability (NODA; 76 FR 9696) stating that DOE may consider whether its regulatory analysis would be improved by addressing product price trends. Using three decades of historic data on the quantities and values of domestic shipments of fluorescent lamps and PAR lamps reported by the U.S. Census Bureau in their Current Industrial Reports, DOE examined product prices trends, fitting the data to an experience curve, as described in chapter 11 of the NOPR TSD. DOE found that the data are well-represented by the experience curve and consistent with price learning theory. Therefore, consistent with the NODA, DOE incorporated price trends into this rulemaking. In the LCC analysis, DOE

[51] Damodaran Online, *The Data Page: Historical Returns on Stocks, Bonds, and Bills—United States* (2014). Available at: *http://pages.stern.nyu.edu/~adamodar.*

[52] U.S. Office of Management and Budget, Circular No. A–94 Appendix C (2013). Available at: *www.whitehouse.gov/omb/circulars_a094/a94_appx-c.*

[53] Federal Reserve Board, Statistics: Releases and Historical Data—Selected Interest Rates—State and Local Bonds (2014). Available at: *www.federalreserve.gov/datadownload/Build.aspx?rel=H15.*

[54] The Federal Reserve Board, Survey of Consumer Finances. Available at: *www.federalreserve.gov/PUBS/oss/oss2/scfindex.html.*

adjusts prices for each year using the experience curve.

2. Sales Tax

In the NOPR analysis, DOE obtained state and local sales tax data from the Sales Tax Clearinghouse. *Id.* The data represented weighted averages that included county and city rates. DOE used the data to calculate a weighted-average sales tax based on the probability of a GSFL or IRL purchased for a particular building type in each census division and large state (New York, California, Texas, and Florida). DOE used information in the 2010 LMC, such as the number of lamps per square feet and the percentage of lamps within a building that are linear fluorescent or halogen. In combination with this information, DOE used CBECS, MECS, and RECS, respectively, for commercial, industrial, and residential building data on building types in each census division and large state. DOE did not receive any feedback on its approach to determining sales tax. In this final rule analysis, DOE used the same methodology with updated sales tax data from the Sales Tax Clearinghouse.[55]

3. Installation Cost

The installation cost is the total cost to the consumer to install the product, excluding the consumer product price. Installation costs include labor, overhead, and any miscellaneous materials and parts. As detailed in the NOPR analysis, DOE considered the total installed cost of a lamp or lamp-and-ballast system to be the consumer product price (including sales taxes) plus the installation cost. For the commercial and industrial sectors, DOE assumed consumers must pay to install the lamp or lamp-and-ballast system and assumed the installation cost was the product of the average labor rate and the time needed to install a lamp or lamp and ballast. In the residential sector, DOE assumed that consumers must pay for only the installation of a lamp-and-ballast system. Therefore, the installation cost assumed was the product of the average labor rate and the time needed to install the lamp-and-ballast system. DOE assumed that residential consumers would install their own replacement lamps and, thus, would incur no installation cost when replacing their own lamp. *Id.*

DOE did not receive any comments on the installation cost. DOE retained this methodology for determining installation costs in this final rule analysis.

4. Annual Energy Use

As discussed in section VI.F, DOE estimated the annual energy use of representative lamp or lamp-and-ballast systems by multiplying input power and sector operating hours. For further discussion regarding annual energy-use calculations, see section VI.F.1. DOE maintained its methodology of determining annual energy-use inputs in this final rule analysis.

5. Product Energy Consumption Rate

As in the NOPR analysis, DOE determined lamp input power for IRLs based on published manufacturer literature. 79 FR at 24123 (April 29, 2014). For GSFLs, DOE calculated the system input power using published manufacturer literature and test data. DOE used lamp arc power, catalog BF, number of lamps per system, and tested BLE (when possible) to calculate system input power for each unique lamp-and-ballast combination. The rated system input power was then multiplied by the annual operating hours of the system to determine the annual energy consumption. DOE did not receive any comments on energy consumption rate calculations. DOE retained this methodology for determining energy consumption in this final rule analysis.

6. Electricity Prices

For the LCC and PBP in the NOPR analysis, DOE derived average energy prices for 13 U.S. geographic areas consisting of the nine census divisions, with four large states (New York, Florida, Texas, and California) treated separately. *Id.* For census divisions containing one of these large states, DOE calculated the regional average, excluding the data for the large state. The derivation of prices was based on data from EIA Form 861, ''Annual Electric Power Industry Database.'' DOE calculated weighted-average electricity prices based on the probability of a GSFL or IRL purchased in each census division and large state. The same methodology as noted previously for determining average weighted sales tax was used to calculate average weighted electricity prices. DOE used data published in the 2010 LMC in combination with CBECS, MECS, and RECS to determine an average weighted electricity price based on the probability of a GSFL or IRL in a particular building type in each census division and large state. DOE did not receive any comments on this approach. DOE retained this methodology for determining electricity prices in this final rule analysis.

7. Electricity Price Projections

To estimate the trends in energy prices for the NOPR analysis, DOE used the price forecasts in *AEO 2013. Id.* To arrive at prices in future years, DOE multiplied current average prices by the forecast of annual average price changes in *AEO 2013.* In this final rule analysis, DOE used the same approach, but updated its energy price forecasts using *AEO 2014.* In addition, the spreadsheet tools that DOE used to conduct the LCC and PBP analyses allow users to select price forecasts from *AEO*'s low-growth, high-growth, and reference case scenarios to estimate the sensitivity of the LCC and PBP to different energy price forecasts. DOE did not receive any comments on this approach and maintained this methodology for determining electricity price projections in the final rule analysis.

8. Replacement and Disposal Costs

In its NOPR analysis, DOE addressed lamp replacements occurring within the analysis period as part of installed costs for considered lamp or lamp-and-ballast system designs. *Id.* Replacement costs in the commercial and industrial sectors included the labor and materials costs associated with replacing a lamp at the end of its lifetime, discounted to 2012$. For the residential sector, DOE assumed that consumers would install their own replacement lamps and incur no related labor costs.

Some consumers recycle failed GSFLs, thus incurring a disposal cost. In its research, DOE found average disposal costs of 10 cents per linear foot for GSFLs.[56] A 2004 report by the Association of Lighting and Mercury Recyclers noted that approximately 30 percent of lamps used by businesses and 2 percent of lamps in the residential sector are recycled nationwide.[57] DOE considered the 30 percent lamp-recycling rate to be significant and incorporated GSFL disposal costs into the LCC analysis for commercial and industrial consumers. Given the very low (2 percent) estimated lamp-recycling rate in the residential sector, DOE assumed that residential consumers would be less likely to voluntarily incur the higher disposal costs. Therefore, DOE excluded the

[55] Sales Tax Clearinghouse. *Aggregate State Tax Rates.* (2014). Available at: *http://thestc.com/STrates.stm.*

[56] Environmental Health and Safety Online's fluorescent lights and lighting disposal and recycling Web page—Recycling Costs. Available at *www.ehso.com/fluoresc.php.*

[57] Association of Lighting and Mercury Recyclers, ''National Mercury-Lamp Recycling Rate and Availability of Lamp Recycling Services in the U.S.'' Nov. 2004.

disposal costs for lamps and ballasts from the LCC analysis for residential GSFLs.

DOE received no comments concerning these assumed recycling rates, disposal costs, and their application in the LCC analysis. DOE maintained this approach in the final rule analysis.

9. Lamp Purchase Events

DOE designed the LCC and PBP analyses for this rulemaking around scenarios where consumers need to purchase a lamp. Each of these events may give the consumer a different set of lamp or lamp-and-ballast designs and, therefore, a different set of LCC savings for a certain efficacy level. In the NOPR analysis, DOE evaluated three types of events that would prompt a consumer to purchase a lamp. *Id* at 24123. These events are described in the following list. Though described primarily in the context of GSFLs, lamp purchase events can be applied to IRLs as well. However, considering that IRLs are not used with a ballast, the only lamp purchase events applicable to IRLs are lamp failure (Event I) and new construction and renovation (Event III).

- *Lamp Failure* (Event I): This event reflects a scenario in which a lamp has failed (spot relamping) or is about to fail (group relamping). In the base case, identical lamps are installed as replacements. In the standards case, the consumer installs a standards-compliant lamp that is compatible with the existing ballast.
- *Ballast Failure* (Event II): This is a scenario in which the failure of the installed ballast triggers a lamp-and-ballast purchase.
- *New Construction and Renovation* (Event III): This event encompasses all fixture installations where the lighting design will be completely new or can be completely changed. During new construction and renovation, the spatial layout of fixtures in a building space is not constrained to any previous configuration. However, because DOE's higher efficacy replacements generally maintain lumen output within 10 percent of the baseline system, DOE did not assume that spacing was changed.

DOE received several comments regarding the lamp purchasing events assessed in the NOPR analysis. OSI questioned if, in the event of ballast failure in the new construction and renovation scenario, the installed cost includes the price of controls that are required by recent building codes, especially ASHRAE 90.1. (OSI, Public Meeting Transcript, No. 49 at pp. 144–145) ASHRAE 90.1 is a standard that provides the minimum requirements for energy-efficient design of certain commercial buildings. OSI noted that any replacement of lamps and ballasts that could be considered renovation would be subject to building codes requiring the installation of lighting controls, and this cost should be added to the scenarios. (OSI, Public Meeting Transcript, No. 49 at p. 146) Westinghouse agreed, stating that having to buy a control for a lamp should be treated no differently than having to hire an electrician and is part of the installation cost for a typical end-user product. (Westinghouse, Public Meeting Transcript, No. 49 at p. 145) NEEA acknowledged that controls may be required by building codes, but pointed out that a building code would apply regardless of the EL chosen. Thus the costs of controls would be the same at each level and would be unlikely to change the incremental installed costs analyzed in the LCC analysis. (NEEA, Public Meeting Transcript, No. 49 at p. 146)

DOE agrees that in the LCC analysis, a consumer that purchases a new lamp will have to comply with the same building code in both the base case (absent amended energy conservation standards) and the standards case (with amended energy conservation standards). In instances where the building code would require lighting controls, DOE reviewed the lighting systems analyzed in the GSFL engineering analysis for this rulemaking and determined that the required controls would not differ between the baseline systems analyzed and each higher efficacy system. Because the controls would be the same at each level, the incremental costs associated with the controls (price and installation) would not be different for the different ELs, Therefore, DOE did not include the cost of controls in the final rule analysis.

Regarding more efficient replacement systems analyzed, NEMA noted switching from T12 or T8 to T5 lamps is expensive, and therefore suggested that the LCC and PBP analyses include the re-ballasting costs for lamps, luminaires, ballasts, labor, and down time. (NEMA, No. 54 at p. 48)

The LCC and PBP analyses determine the economic impacts to a consumer within an individual product class. Because only one type of lamp (*i.e.,* T5 or T8) is specified within each product class, DOE does not account for product class switching in the LCC and PBP analyses. DOE does, however, account for product class switching in the shipments analysis and, subsequently, the NIA. See VI.I for additional details on product class switching in the shipments analysis.

DOE received no other comments on lamp purchase events and is maintaining the lamp purchase events and the associated assumptions in this final rule analysis.

10. Product Lifetime

a. Lamp Lifetime

In the NOPR analysis, DOE used manufacturer literature to determine lamp lifetimes. DOE also considered the impact of group relamping practices on GSFL lifetime in the commercial and industrial sectors. In the NOPR analysis, DOE assumed that a lamp subject to group relamping operates for 85 percent of its rated lifetime based on information from manufacturers in interviews that consumer behavior had changed due to recent economic conditions and group relamping occurred at 85–90 percent of rated life. *Id.* at 24124.

Westinghouse agreed that relamping would occur at 85 percent of rated life in the commercial sector, however, they noted that in the residential sector, relamping would occur when the resident cannot see or when the lamp fails. (Westinghouse, Public Meeting Transcript, No. 49 at p. 144) Philips further commented that older consumers would relamp sooner, due to impaired eyesight. (Philips, Public Meeting Transcript, No. 49 at p. 144)

DOE assumed that during group relamping, a consumer removes and replaces a collection of lamps that are near the end of their lives at once, as a way of avoiding the failure of any individual lamp in the collection. While DOE models this behavior in the commercial sector, DOE assumed that residential sector consumers replace their lamps either when they fail or when the associated fixture is removed; thus, there are no spot or group relamping lifetime impacts on the residential sector.

NEMA noted that group relamping is commonly recommended at 70–80 percent of rated life. During the 2010–2011 rare earth crises, group relamping may have been delayed, but it has since come back in line with the recommended time frame. (NEMA, No. 54 at p. 32)

DOE acknowledges that the economic conditions that impacted group relamping decisions may have been temporary and, taking into consideration NEMA's observation, changed the group relamping assumption to 75 percent of rated life for the final rule analysis. See chapter 8 of the final rule TSD for further details.

In the NOPR, DOE used 15 years as the estimated fixture and ballast lifetime in the residential sector for purposes of its analyses. NEMA commented that DOE should not assume a normal average lifetime for residential GSFLs as these lamps typically fail from frequent switching rather than deterioration of the emitter. NEMA mentioned that failure due to rapid switching is unpredictable and variable, based on the frequency of switches, and therefore it is difficult to define an average lifetime in this sector. NEMA suggested that DOE review their analysis for residential GSFL lifetime by incorporating switching and hours of use data from the NEEA residential building stock assessment metering study. (NEMA, No. 54 at pp. 31–32)

Based on a report, DOE found that the average fixture and ballast in the residential sector lasts for 15 years.[58] Therefore, in its residential sector analysis for GSFLs, DOE established 15 years as the average ballast lifetime in the residential sector, regardless of operating hours. Because the lamp lifetime exceeds the ballast lifetime under average operating hours conditions, DOE assumed that the ballast lifetime of 15 years limits the lamp lifetime. While the typical lifetime of a GSFL is about 37 years in the residential sector, by basing the analysis period on the ballast lifetime, DOE used a much shorter analysis period than the product lifetime in its analysis for residential GSFLs and, therefore, likely accounted for early failure of lamps due to frequent switching. As recommended by NEMA, DOE also reviewed NEEA's data, but found that the data did not provide the lifetime data on the GSFLs DOE analyzed in the residential sector. Therefore, DOE maintained the lamp lifetime of 15 years based on the ballast lifetime for this final rule analysis.

b. Ballast Lifetime

Chapter 8 of the NOPR TSD detailed DOE's development of average ballast lifetimes, which were based on assumptions used in the 2011 Ballast Rule. For ballasts in the commercial and industrial sectors, DOE used an average ballast lifetime of 49,054 hours. Consistent with the 2011 Ballast Rule, DOE assumed an average ballast lifetime of approximately 15 years in the residential sector. DOE received no comments on this approach and retained these ballast lifetimes in the final rule.

[58] Economic Research Associates, Inc., and Quantec, LLC. Revised/Updated EULs Based On Retention And Persistence Studies Results. Southern California Edison, 2005.

11. Discount Rates

The calculation of consumer LCC requires the use of an appropriate discount rate. DOE used the discount rate to determine the present value of lifetime operating expenses. The discount rate used in the LCC analysis represents the rate from an individual consumer's perspective.[59]

In the NOPR analysis, for the residential sector, DOE derived discount rates from estimates of the interest or ''finance cost'' to purchase residential products. 79 FR at 24125 (April 29, 2014). The finance cost of raising funds to purchase these products can be interpreted as: 1) the financial cost of any debt incurred to purchase products (principally interest charges on debt), or 2) the opportunity cost of any equity used to purchase products (principally interest earnings on household equity). Household equity is represented by holdings in assets, such as stocks and bonds, as well as the return on homeowner equity. Much of the data required, which involves determining the cost of debt and equity, comes from the Federal Reserve Board's triennial ''Survey of Consumer Finances.'' [60] For the commercial and industrial sectors, DOE derived discount rates from the cost of capital of publicly traded firms in the business sectors that purchase lamps.

DOE received no comments concerning the determination of discount rates. Thus, DOE maintained this approach in the final rule analysis. For further details on discount rates, see chapter 8 and appendix 8C of the final rule TSD.

12. Analysis Period

The analysis period is the span of time over which the LCC is calculated. In the NOPR analysis, DOE used the longest baseline lamp life in a product class divided by the annual operating hours of that lamp as the analysis period. *Id.* During Monte Carlo simulations for the LCC analysis, DOE selected the analysis period based on the longest baseline lamp life divided by the annual operating hours chosen by Crystal Ball. For GSFLs in the residential sector, the analysis period is based on the useful life of the baseline lamp for a specific event. GE and Philips commented that this approach seemed reasonable. (GE, Public Meeting Transcript, No. 49 at p. 147; Philips, Public Meeting Transcript, No. 49 at p. 148) DOE maintained this approach for determining the analysis period in the final rule analysis.

[59] The consumer discount rate is in contrast to the discount rates used in the NIA, which are intended to represent the rate of return of capital in the U.S. economy, as well as the societal rate of return on private consumption.

[60] The Federal Reserve Board. *Survey of Consumer Finances 1989, 1992, 1995, 1998, 2001, 2004, 2007, 2010.* Federal Reserve Board: Washington, DC. Available at: *www.federalreserve.gov/pubs/oss/oss2/scfindex.html.*

13. Compliance Date of Standards

The compliance date is the date when a covered product is required to meet a new or amended standard. Consistent with 42 U.S.C. 6295(i)(5), DOE analyzed a compliance date in 2018, three years after the publication of the final amended standards. DOE calculated the LCC for all end users, as if each one would purchase a new lamp in the year compliance with the standard is required.

14. Incandescent Reflector Lamp Life-Cycle Cost Results in the NOPR

DOE received several comments regarding the LCC results of IRLs in the NOPR analysis. GE commented that the LCC analysis appeared to be done mostly for commercial customers of PAR38 lamps and would have a dramatically different and negative outcome for the residential sector and other consumers. (GE, Public Meeting Transcript, No. 49 at p. 152)

DOE conducted separate LCC analyses for the commercial sector and residential sector. See chapter 8 of the final rule TSD for all results by sector.

NEMA commented that consumers were unlikely to realize the operating cost savings DOE claimed in the NOPR. (NEMA, No. 54 at p. 11) NEMA questioned how the proposed rulemaking can generate positive savings for consumers of IRLs when the increased product costs are higher than the energy savings. NEMA reasoned that an 18.75 lm/W PAR38 would need an infrared coated burner to reach an efficacy of 19.57 lm/W to comply with the standards proposed in the NOPR. The increased efficacy would save the consumer $0.36 per year while the burner would add about $1 to the cost of the lamp. NEMA further argued that the lamp is only rated at 1,100 hours, so the consumer will never see the payback from the improved lamp. NEMA commented that DOE cannot assume that technological breakthroughs yet to be discovered would improve the efficacy and lifetime of the lamp. As such, NEMA concluded that DOE cannot prove that a full range of products would comply with the standards proposed in the NOPR, and that DOE has not adequately addressed the negative cost effects on the consumer. (NEMA, No. 54 at pp. 32–33)

In its analysis, DOE considered only more efficacious replacements with lifetimes greater than or equal to the baseline lifetime. Both representative lamp units that DOE analyzed at EL 1 have lifetimes longer than the baseline. The characteristics of the representative lamp units were used as inputs to the LCC analysis. The LCC analysis assumes that the analysis period is the lifetime of the baseline lamp. Any lamps at higher efficacy levels that have longer lifetimes than that of the baseline product incorporate a residual value into the life-cycle cost, which subtracts the value of the lamp at the end of the analysis period from the total life-cycle cost. Thus, the residual values of the longer lifetime lamps increase the LCC savings.

NEMA commented that the increased efficacy of the EL 1 proposed in the NOPR would result in a 30 percent reduction in lifetime,[61] meaning a total loss of financial feasibility as the payback period would be longer than the lifetime of the more efficacious lamps. (NEMA, No. 54 at p. 29)

DOE recognizes that there is an inverse relationship between efficacy and lifetime for IRLs. The engineering analysis focuses on commercially available products and DOE does not analyze efficacy levels that require shorter lifetimes than the baseline product. However, DOE is aware that to meet higher efficacy levels, manufacturers can choose to produce lamps with shorter lifetimes than the baseline lamp to achieve higher efficacies. Given that manufacturers responded to the July 2012 standards by introducing IRLs with shorter lifetimes, DOE understands this is a likely path manufacturers may take in response to higher standards. To capture the impacts of the relationship between lifetime and efficacy in IRLs, DOE determined how much the lifetime of a lamp with the same wattage as the baseline lamp must be shortened to achieve each efficacy level in the final rule analysis. (See chapter 5 of the final rule TSD for further information.) The impact of these shortened lifetime lamps are assessed as sensitivities in the LCC, NIA, and MIA. (See respectively, appendix 8B, chapter 12, and appendix 13B of the final rule TSD). For the shortened lifetime sensitivity, because the wattage is the same as the baseline, there are no energy savings and therefore, the LCC savings are negative and a payback period cannot be calculated.

[61] NEMA cited the following reference for this calculation: Vukcevich, Milan R. *The Science of Incandescence.* NELA Press, 1992.

H. Consumer Subgroup Analysis

In analyzing the potential impact of new or amended standards on consumers, DOE evaluates the impact on identifiable subgroups of consumers (*e.g.,* low-income households) that a national standard may disproportionately affect. In the NOPR analysis, DOE evaluated low-income consumers and institutions that serve low-income populations (*e.g.,* small nonprofits) as subgroups. DOE did not receive any comments regarding subgroups and therefore maintained this approach for assessing consumer subgroups in the final rule analysis. Chapter 9 of the final rule TSD presents the results of the consumer subgroup analysis.

I. Shipments Analysis

DOE uses projections of product shipments to calculate the national impacts of standards on energy use, NPV, and future manufacturer cash flows. DOE develops shipment projections based on historical data and an analysis of key market drivers for each product. Historical shipments data are used to build up a product stock and also to calibrate the shipments model. The details of the shipments model are described in chapter 11 of the final rule TSD.

The shipments model projects shipments of GSFLs and IRLs over a 30-year analysis period for the base case (no standards) and for all standards cases. Separate shipments projections are calculated for the residential sector and for the commercial and industrial sectors. The shipments model used to estimate GSFL and IRL lamp shipments for this rulemaking has four main interacting elements: (1) A lamp demand module that estimates the demand for GSFL and IRL lighting for each year of the analysis period; (2) a price-learning module, which projects future prices based on historic price trends; (3) substitution matrices, which specify the product choices available to consumers (lamps as well as lamp-and-ballast combinations for fluorescent lamps) depending on whether they are renovating lighting systems, installing lighting systems in new construction, or simply replacing lamps; and (4) a market-share module that assigns shipments to product classes, ballasts, and lamp options, based on consumer sensitivities to first costs (prices) and operation and maintenance costs.

The lamp demand module first estimates the lumen demand for GSFL and IRL lighting. The lumen demand calculation assumes that sector-specific lighting capacity (maximum lumen output of installed lamps) remains fixed per square foot of floor space over the analysis period. Floor space changes over the analysis period according to the EIA's *AEO 2014* projections of residential and commercial floor space; industrial floor space is assumed to grow at the same rate as commercial floor space. A lamp turnover calculation estimates shipments of lamps in each year given the initial stock, the expected lifetimes of the lamps (and ballasts for GSFLs), and sector-specific assumptions on operating hours. The turnover model attempts to meet the lumen demand as closely as possible, subject to the constraint that the areal density of lighting fixtures is fixed for existing buildings that are not renovated.

The lamp demand module accounts for the penetration of LED lighting into the GSFL and IRL markets. The reference assumption for LED market penetration is based on projections developed for DOE's Solid-State Lighting (SSL) Program.[62] The SSL Program projections extend only to 2030; DOE extrapolated to the end of the shipments forecast period. DOE fitted the technology adoption curve to allow for an entire market takeover by LEDs. Given the best fit to the SSL forecast, DOE estimates that LEDs will achieve close to 100 percent penetration in both the GSFL and IRL markets by 2046.

The shipments model accounts for the use of lighting controls, including dimming and on-off controls, because controls affect ballast and lamp requirements and, therefore, lifetimes and shipments. The reference assumption for lighting system controls for the commercial sector is that state building energy code requirements for lighting controls remain constant at current levels, as does the ratio of voluntary to code-driven demand. Because code provisions are implemented only in new construction and building renovations that meet certain threshold requirements, code-driven implementation of lighting controls grows in slowly over time.

The price-learning module estimates lamp and ballast prices in each year of the analysis period using a standard price-learning model.[63] The model is

[62] Navigant Consulting, Inc. *Energy Savings Potential of Solid-State Lighting in General Illumination Applications.* U.S. DOE Solid State Lighting Program, January 2012. Available at *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_energy-savings-report_jan-2012.pdf.*

[63] For discussion of approaches for incorporating learning in regulatory analysis, see Taylor, Margaret, and Sydny K. Fujita. *Accounting for Technological Change in Regulatory Impact Analyses: The Learning Curve Technique.* Berkeley:

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calibrated using three decades of historic data on the volume and value of fluorescent and PAR lamp shipments in the U.S. market, from which cumulative shipments and average prices are derived. Prices and cumulative shipments are fit to an experience curve. They are then augmented in each subsequent year of the analysis based on the shipments determined for the prior year by the module that assigns shipments to product classes and ELs. The current year's shipments, in turn, affect the subsequent year's prices. As shown in chapter 11 of the final rule TSD, because fluorescent and PAR lamps have been on the market for decades, cumulative shipments are changing slowly. Therefore, experience curve effects are relatively small—an effect that is further constrained by the expected incursion of solid-state lighting into the GSFL and IRL markets.

The market-share module apportions the lamp and ballast shipments in each year among the different product classes, ballast types, and lamp options based on consumer sensitivities to first costs and operation and maintenance costs. To determine the prices used as inputs to the market-share module, DOE uses the ballast prices, weighted-average lamp prices, and installation costs developed in the engineering and LCC analyses. The operation and maintenance costs are based on the power required to operate a particular lamp-and-ballast system, the price of electricity, and the annualized cost of lamp replacements over the lifetime of that system. To enable a fair comparison between systems with different light output, the module considers the prices and operating and maintenance costs computed per kilolumen of light output. For consumers replacing lamps on existing ballasts, only the lamp-related prices and energy costs are considered by the market-share module. For consumers replacing an entire lamp-and-ballast system, the full price of the system, as well as the energy and annualized relamping costs, are considered.

The ballast types and lamp options considered in the shipments model were determined in the engineering analysis. Whereas the earlier analyses considered only lamp-and-ballast combinations that did not increase energy relative to the baseline system, the shipments analysis allows consumers to choose among different lamp-and-ballast systems. These lamp-and-ballast combinations include full wattage and reduced wattage lamps coupled to ballasts with high, normal, or low ballast factors, and dimming ballasts. Programmed start and instant start ballasts are also considered separately, where appropriate. DOE limits or excludes lamp-and-ballast combinations that DOE's research indicates would not provide acceptable performance or would only do so in limited circumstances. The remaining combinations allow for a variety of different energy-saving and non-energy-saving options relative to the baseline. Details of the selection of allowable lamp-and-ballast combinations are given in chapter 11 of the final rule TSD.

The market-share module allows for the possibility that consumers will switch among the different product classes, ballast types, and lamp options over time. Substitution matrices were developed to specify the product choices available to consumers (lamps as well as lamp-and-ballast combinations), depending on whether they are retrofitting lighting systems, renovating the lighted space, installing lighting systems in new construction, or simply replacing lamps, and depending on the particular lighting application. In this way, the module assigns market shares to the different product classes, ballast types, and ELs based on historical observations of consumer sensitivity to price and to operating and maintenance costs.

DOE projects that some fraction of the lighting market currently being served by T8 lamps will migrate to T5 lamps in the absence of standards. At the NOPR stage, DOE projected that the standards in this rulemaking would make certain T5 systems more cost competitive relative to certain T8 systems, resulting in an increase in the rate of this T8 to T5 lamp migration. DOE received comments regarding product class switching between T8 lamps and T5 lamps. Philips, NEMA, and GE commented that consumers will not switch from T8 lamps to T5 lamps. Philips and NEMA stated that T5s have been on the market for 20 years and have not been used as substitutes for T8s. NEMA and GE mentioned that T5 lamps are shorter than T8 lamps; therefore, T5 lamps cannot be used to retrofit T8 fixtures and vice versa. Philips, NEMA, and GE also noted that T5 and T8 lamps are used in different applications. Because T5 lamps have higher luminance than T8 lamps, T5 lamps are typically used in indirect fixtures or places with high ceiling heights, whereas T8 lamps are used in direct fixtures or places with lower ceiling heights. Hence Philips, NEMA, and GE stated that these lamps cannot be used interchangeably. (Philips, Public Meeting Transcript, No. 49 at p. 163–164; GE, Public Meeting Transcript, No. 49 at p. 163, p. 167–168; NEMA, No. 54 at p. 14, p. 46)

DOE is aware that there are physical and optical differences between T8 and T5 lamps. DOE assumes in its modeling for this rulemaking that switching between T8 and T5 lamps does not occur during retrofits. The potential for substitution of 4-foot MBP and 8-foot slimline with T5 SO Lamps is only assumed at the time of new construction and renovation, when a new luminaire would be specified. DOE's analysis indicates that there exist T5 luminaires that compete directly with 4-foot MBP T8 luminaires in most applications in the largest luminaire markets (*e.g.,* commercial offices, education, industrial). In some cases, luminaire manufacturers offer essentially identical luminaires in 4-foot T8 and T5 versions. Therefore, DOE believes that the switching from T8s to T5s estimated in the NOPR, and in the final rule, is reasonable. See appendix 11C of the final rule TSD for examples of these luminaires and a discussion of DOE's analysis of the substitution potential for 4-foot MBP and T5 SO Lamps.

NEMA noted that first cost is a significant driver of consumers' choice of product class and, as a consequence, higher initial T8 lamp costs would drive consumers to T5 products or LED products in new construction and renovation projects. (NEMA, No. 54 at p. 46) This comment is consistent with DOE's assumptions in the analysis for this rulemaking.

NEMA noted that, even if the standards required the 4-foot MBP T8 to increase phosphor use, T5 lamps would remain more expensive than T8 lamps owing to differences in manufacturing technology. (NEMA, No. 54 at p. 34) DOE determined the end-user prices of lamps by applying a shipment-weighted discount to the blue book price of the lamp. In certain cases the end-user prices for 4-foot MBP T8 lamps are higher than for T5 MiniBP SO lamps (see chapter 7 of the final rule TSD). At max tech, the full-wattage 4-foot MBP T8 lamp end-user prices are higher than the full wattage T5 MiniBP SO.

NEMA also commented that T5 lamp sales are not from T8 consumers but are mainly from consumers switching from older inefficient technology, like HID lamps. However, NEMA added that this rulemaking would slow down the transition from HID products to T5 lamps. (NEMA, No. 54 at p. 47)

In its assessment of the market, DOE did not find any T5 HO lamps at the baseline efficacy level considered here.

Lawrence Berkeley National Laboratory, 2013. LBNL–6195E.

Thus, the amended standard represents the least efficacious T5 HO lamps on the market. For this reason DOE believes that this standard will have no impact on the transition from HID to T5 technology.

NEMA noted that the inability of non-PAR38 lamps to meet the proposed standard would cause consumers to switch to either expensive LED lamps or BR lamps that consume more energy than PAR lamps. NEMA calculated that the overall energy savings could be negative. (NEMA, No. 54 at pp. 20, 29) NEMA stated that significant energy savings would be lost under the proposed standards due to forcing halogen PAR30 lamp consumers to switch to LED lamps, the reduced wattage 39W PAR30 lamps, or 65W BR30 lamps after PAR30 lamps are eliminated from the market. NEMA and GE predicted that the majority of consumers would switch to the BR30 lamps, which would cause an increase of 97 kWh per year, an inadvertent increase of 0.03 quads of energy. NEMA stated that, given the popularity of these IRLs and the alternative lamps once they are eliminated, no new standard should be set for PAR30 lamps. (NEMA, No. 54 at pp. 48–49; GE, Public Meeting Transcript, No. 49 at pp. 121–122) ASAP noted that there are substitute lamps outside of the scope of this rulemaking and that DOE needed to consider what consumer choices could be made among the unregulated product options. (ASAP, Public Meeting Transcript, No. 49 at pp. 114–115) GE disagreed and stated that consumers purchase quite a number of regulated products, such as PAR20, PAR30, and 90W PAR38 lamps. (GE, Public Meeting Transcript, No. 49 at pp. 115–116)

DOE's analysis indicates that there are PAR30 and PAR20 products on the market that meet EL 1. DOE recognizes that BR lamps are potential substitutes for non-PAR38 IRLs. However, given the large price difference between PAR and BR lamps in the current market, DOE believes that all consumers currently using PAR lamps are obtaining a unique utility from the PAR lamps for which they are willing to pay a substantial price premium. Thus, DOE believes that all potential switching from PAR to BR lamps has already taken place. DOE accounts for some consumers shifting to LED lamps with the use of an LED market adoption curve.

The market-share module incorporates a limit on the diffusion of new technology into the market using the widely accepted Bass adoption model,[64] the parameters of which are based on historic penetration rates of new lighting technologies into the market. It also accounts for other observed deviations from purely price- and cost-driven behavior using an acceptance factor, which sets an upper limit on the market share of certain product classes and lamp options that DOE research indicates are acceptable only to a subset of the market. The available options depend on the case under consideration; in each of the standards cases corresponding to the different TSLs, only those lamp options at or above the particular standard level in each product class are considered to be available.

Because DOE executes the market-share module for the base case and each of the standards cases independently, the shipments analysis allows for the possibility that setting a standard on one product class could shift market share toward a different product class. The costs and benefits accruing to consumers from such market share shifts are fully accounted for in the NIA.

When the shipments model selects lamps for replacement, retrofit, renovation, or new construction, it accepts only lamps or lamp-and-ballast combinations that retain lumen capacity within acceptable bounds.

As discussed previously, based on manufacturer feedback, DOE determined that consumers would not notice a change in light output that is up to 10 percent, and that some consumers will choose to reduce light levels beyond 10 percent to conserve energy. Accordingly, in the shipments analysis, DOE assumes that consumers choose between lighting systems within 10 percent of current light output by considering the trade-off between first cost and operating costs, and not the relative light output. In this approach, systems that save energy in a cost-effective way will tend to be selected over systems that increase light output without saving energy. DOE further assumes that the fraction of the market that will accept larger reductions in lumen output is fixed throughout the analysis period. The size of this market segment was estimated from the current market share of reduced wattage lamps that reduce light levels by more than 10 percent compared to the baseline lamp. The model does not allow cumulative reductions in light levels. The model retains national average light levels within 10 percent of the average level at the beginning of the analysis period. No potential standards considered in this analysis lead to average light levels outside of this range.

DOE is aware of the substantial impact of the ballast and lamp choice on the energy consumption of a lamp-and-ballast system. As discussed earlier in this section, the shipments analysis explicitly models the possibility that consumers will choose to reduce their ballast factor during a renovation or retrofit or switch to reduced wattage lamps when relamping an existing system. In addition, this analysis models the growth of dimming ballasts in the market and allows a variety of lamps to be coupled to dimming ballasts to achieve a fixed light output. Thus, when high-efficacy lamps are coupled to dimming ballasts, the overall energy savings are greater than those that are achieved when lower efficacy lamps are coupled to dimming ballasts. DOE assigns market share to these lamp-and-ballast pairings using a model based on historical consumer sensitivity to price and operating costs. When a particular pairing saves energy in a cost-effective manner compared to other pairings, its market share is increased compared to less cost-effective options. As in the NOPR analysis, DOE did not consider delamping in this final rule because manufacturer feedback confirmed that delamping is not common practice when retrofitting existing T8 systems as lumen output levels have already been reduced to comply with newer recommended lighting levels and building codes. The shipments model, however, allows for the possibility that consumers will alter the number of lamps per square foot during renovations to maintain light levels.

NEMA noted that future installations or retrofits would not adequately ''tune'' lamp and ballast pairings, by manipulating the ballast factor, especially during the maintenance phase of system lifetime when lamps and ballasts get replaced on a case-by-case basis. Furthermore, without this ballast tuning, consumers would have increased light density with the same energy consumption as the previous lamp-and-ballast system had. (NEMA, No. 54 at pp. 18 and 36)

DOE is aware that the ballast factor is not typically modified during the maintenance phase of a lamp-ballast system. DOE assumes in its modeling for this rulemaking that any tuning of the ballast and lamp pairing does not occur during the maintenance phase. Adequate tuning is only assumed at the time of new construction, renovation, and retrofitting.

GE and NEMA disagreed with the assumption that ballast factors can be

[64] Bass, F.M. A New Product Growth Model for Consumer Durables. *Management.* 1969. 15(5): pp. 215–227.

tuned to maintain the same light output. They both stated that ballast factors are only available in 10 percent increments while the resulting increase in efficacy is only about 2–3 percent. They commented that consumers will keep the same ballast factor for retrofits, which means that the lamps will still consume the same amount of energy but will be giving 2–3 percent more lumen output. (GE, Public Meeting Transcript, No. 49 at p.196–198; NEMA, No. 54 at p. 18)

DOE is aware that ballast factors tend to cluster around modal values that are separated by roughly 10 percent. However, in analyzing the market, DOE identified ballasts with a broad range of ballast factors that were not restricted to these modal values. Moreover, DOE notes that the increase in lumen output from the baseline to the full-wattage EL 2 lamp is 7 percent for 4-ft MBP lamps, and 16 percent for T5 SO lamps. DOE believes that, for consumers undertaking renovations, lighting retrofits, and new construction, the selection of ballast factor will be informed by the lamps available on the market and that an increased fraction of consumers will choose lower ballast factors than are now typical if typical lamp lumen ratings increase.

DOE notes that full wattage lamp options are available for all product classes at all efficacy levels considered in this analysis. DOE's research indicates that krypton gas is generally used to reduce the wattage of lamps and that full wattage lamps can generally be dimmed reliably. Also, as discussed previously, DOE found that dimming ballasts for 4-foot MBP lamps are commonly marketed as compatible with reduced wattage lamps, which are presumably krypton filled. Accordingly, in the shipments analysis and the NIA, DOE allows all full wattage lamp options to be coupled to dimming ballasts. DOE also allowed reduced wattage options in the 4-foot MBP category to be coupled to dimming ballasts, but, because the range of applications for this combination is restricted, DOE limits its market share in the analysis.

NEMA provided their Ballast Section market survey data, indicating that dimming ballast sales decreased between 2010 and 2013. NEMA acknowledged that CA Title 24 and ASHRAE 90.1 may increase these shipments, but stated that the increase in shipments could not be properly estimated at this time due to their recent or sporadic adoption. NEMA noted that the last rulemaking constrained this decreasing market. (NEMA, No. 54 at p. 33, p. 35, p. 47)

DOE thanks NEMA for the input on dimming ballast shipments. DOE believes that, given the many recently updated commercial building codes that require lighting controls, the market share of dimming ballasts is very likely to increase in the future and that the recent decline is likely transitory. Therefore, DOE has modeled the fraction of commercial floorspace that is subject to such codes and utilizes this in its analysis to estimate the future market share of dimming ballasts, based on current usage of dimming in fluorescent lighting systems.

Rare earth oxides (REOs) are used in GSFL phosphors to increase their efficacy. The shipments model considers the potential impact of changes in rare earth oxide prices on fluorescent lamp prices and, thereby, on GSFL shipments. Large increases in rare earth oxide prices in 2010 and 2011 raised manufacturer concerns that future price increases could have adverse impacts on the market. DOE developed shipments scenarios in its NOPR to reflect uncertainties in the prices of rare earth oxides.

NEMA noted that the prices during the last REO crisis increased by 400 to 700 percent. Due to decreased REO prices and subsequent slowing of REO supply expansion, NEMA mentioned the possibility of another price increase as future supplies are uncertain. Therefore, NEMA suggested that DOE revise the estimates of the high end of possible prices to 700 percent of current prices. (NEMA, No. 54 at p. 34–35)

DOE has examined the rare earth oxide market and still considers future rare earth prices significantly uncertain. DOE considered two price scenarios in its shipments modeling for GSFLs, as described in appendix 11B of the final rule TSD. The reference scenario assumes that rare earth prices remain fixed at their June 2014 level. The high rare earth price scenario assumes an average rare earth price 4.5 times the reference level, representing a value that is half way between the low pre-2010 baseline price and the 2011 peak price. This scenario represents the average price of regular price fluctuations between the peak and baseline amounts. DOE notes that the high rare earth price scenario represents a high price volatility scenario where the price could fluctuate at higher or lower levels than 4.5 times the baseline rare earth price.

J. National Impact Analysis—National Energy Savings and Net Present Value Analysis

The NIA assesses the NES and the national NPV of total consumer costs and savings expected to result from amended standards for GSFLs and IRLs at specific efficacy levels. Analyzing impacts of potential energy conservation standards for GSFLs and IRLs requires comparing projections of total energy consumption with amended energy conservation standards to projections of energy consumption without the standards (the base case).

As the shipments model allows for substitutions across product classes when lighting systems are selected during renovation or new construction, understanding the impact of setting a standard at any given level for any given product class requires considering the impact on all other product classes. Therefore, in addition to conducting the analysis for the covered products as a whole, DOE evaluated the NPV and NES by product class to determine the impact of consumer switching between product classes. The NIA was developed in a Microsoft Excel spreadsheet,[65] allowing access to a broad range of scenario assumptions for conducting sensitivity analyses on specific input values. The major inputs for the NIA are described in Table VI.10.

TABLE VI.10—INPUTS FOR THE NATIONAL IMPACT ANALYSIS

Input	Description
Shipments	Annual shipments from shipments model.
Compliance date of standard	January 1, 2018.
Base case efficiencies	Estimated by market-share module of shipments model.
Standards case efficiencies	Estimated by market-share module of shipments model.
Annual energy consumption per unit	Calculated for each efficacy level and product class based on inputs from the energy use analysis.

[65] Available at *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/24.*

TABLE VI.10—INPUTS FOR THE NATIONAL IMPACT ANALYSIS—Continued

Input	Description
Total installed cost per unit	Lamp prices by efficacy level, ballast prices by ballast type, and lamp and ballast installation costs. The weighted-average prices and installation costs developed in the engineering analysis and LCC analysis were used.
Electricity expense per unit	Annual energy use for each product class is multiplied by the corresponding average energy price.
Escalation of electricity prices	*AEO 2014* forecasts (to 2040) and extrapolation beyond 2040.
Electricity site-to-primary energy conversion	A time series conversion factor; includes electric generation, transmission, and distribution losses.
Discount rates	3% and 7% real.
Present year	2014.

1. National Energy Savings

The inputs for determining the NES for each product class are: (1) Lamp shipments; (2) annual energy consumption per unit; (3) installed stocks of lamps (coupled to each analyzed ballast type for GSFLs) in each year; and (4) site-to-primary energy and FFC conversion factors. The lamp stocks were calculated by the shipments model for each year of the analysis period from the prior year's stock, minus retirements, plus new shipments, accounting for lamp and ballast lifetimes. DOE calculated the national electricity consumption in each year by multiplying the number of units of each product class and EL in the stock by each unit's power consumption and operating hours. The power consumption is determined by the lamp wattage and, for each GSFL, by the ballast type to which each lamp is coupled. The operating hours are estimated by taking a weighted average of the distributions developed in the LCC analysis. The electricity savings are estimated from the difference in national electricity consumption by GSFLs between the base case (without new standards) and each of the standards cases for lamps shipped during the 2018–2047 period.

DOE accounted for the impact of lighting system controls on lighting energy use as well as on lamp shipments, as discussed in the previous section. DOE understands that many lighting control systems may not achieve the savings for which they were designed. Accordingly, the estimated average energy reduction from controls is based on a meta-analysis of studies on the performance of actual lighting controls systems in the field.[66]

NEMA requested clarification on DOE's assumption that no individual reduced wattage lamp option will be coupled to more than 10 percent of the dimming ballasts in the installed stock, owing to performance problems that may arise in some applications. (NEMA, No. 54 at p. 33) NEMA further commented that DOE cannot assume energy savings from pairing 28W energy-saver lamps with dimming ballasts, as DOE cannot presume that consumers will tolerate not having full dimming functionality with these lamps. NEMA specified that DOE must remove all energy savings estimated to result from the energy-saver lamps in this scenario and instead assume full-wattage lamps would be installed. (NEMA, No. 54 at p. 36)

In its assessment of the market, DOE noted the presence of T8 dimming ballasts whose marketing materials indicated compatibility with reduced wattage lamps. Therefore, DOE believes that at least some consumers with dimming ballasts would consider coupling them to such lamps. DOE is aware, however, that in some cases significant performance degradation is possible when coupling reduced wattage lamps to dimming ballasts. Therefore, DOE assumed that only a small fraction of consumers with dimming ballasts would consider purchasing reduced wattage lamps to install on their ballasts. Specifically, DOE took this fraction to be 10 percent of consumers who have dimming ballasts. This represents the fraction of consumers who would consider such a lamp-ballast combination among the set of plausible options; not all such consumers will in fact decide to purchase reduced wattage lamps. Thus, the fraction of dimming ballasts that are coupled to reduced wattage lamps remains exceedingly small in DOE's projections throughout the analysis period.

NEMA commented that, although 4-foot T8 argon lamps can have efficacies of 89, 90, 91, or 92.4 lumens per watt, at different efficacies these lamps will still operate at the same wattages, and instead they would just provide different illumination. Therefore, NEMA stated that there is no meaningful difference in national energy use impact from choosing any of these three levels above 89 lm/W. Furthermore, NEMA added that an energy conservation standard for 4-foot MBP GSFLs at 89 lm/W will maintain consumer utility as well as increase national energy savings by increasing use of dimming systems. (NEMA, No. 54 at p. 14)

DOE does not agree that lamps at different efficacies will still operate at the same wattages. DOE considers two modes by which energy savings can be achieved with full-wattage lamps. First, when using more efficacious lamps, consumers with dimming ballasts may dim their systems to a lower input wattage to achieve the same light output. Second, consumers undertaking renovations, lighting retrofits, and new construction may select lower ballast factors on average if only high-efficacy lamps are available on the market. Regarding NEMA's claim that a standard at 89 lm/W will increase national energy savings by maintaining utility and increasing use of dimming systems, DOE has ensured that, at all ELs considered for 4-foot MBP lamps, lamp options are available that can be coupled to dimming systems. Therefore DOE does not believe that this final rule will negatively impact the energy savings that is available from dimming.

DOE accounts for the direct rebound effect in its NES analysis. Direct rebound reflects the idea that, as appliances become more efficient, consumers use more of their service because their operating cost is reduced. In the case of lighting, the rebound could be manifested in increased hours of use or in increased lighting density (fixtures per square foot). Based on information evaluated for the preliminary analysis, DOE assumed no rebound for the residential or commercial lighting in its reference scenario for the final rule analysis.

NEMA commented that, if light levels are reduced through energy-saver lamps or lower ballast factor ballasts, end users

[66] Williams, A., B. Atkinson, K. Garbesi, E. Page, and F. Rubinstein (2012). Lighting controls in commercial buildings. *Leukos* 8(3): 161–180. *www.ies.org/leukos/samples/1_Jan12.pdf.*

could offset the reduction in light levels by increasing the GSFL use or through other technologies, thereby reducing the energy-saving benefit. NEMA referenced an article and a report that they believe support their point of view. (NEMA, No. 54 at p. 36) Additionally, Miller commented that DOE should evaluate whether there was a measurable rebound effect resulting from use of more energy-efficient lamps. (Miller, No. 50 at p. 12)

DOE is not aware of any methodologically sound studies that have quantified a direct rebound effect for lighting efficacy improvement in commercial buildings, where most GSFLs are used. As discussed in chapter 12 of the final rule TSD, DOE did not find evidence of systematic increases in operating hours or lighting density of GSFLs or IRLs with increased efficacy of these products. The items mentioned by NEMA refer to the potential for higher lighting demand when consumers start using LEDs. DOE believes that adoption of LEDs would not be impacted by the standards in this notice, so any rebound effect associated with this lighting technology is not germane. Based on the weight of the evidence, DOE assumed zero rebound for GSFLs or IRLs with increased efficacy. DOE also conducted a sensitivity analysis assuming a high rebound rate of 15 percent, which is presented in chapter 12 of the final rule TSD. Using a high rebound rate does not change the relative ranking of the considered TSLs.

DOE converted the site electricity consumption and savings to primary energy (power sector energy consumption) using annual conversion factors derived from the *AEO 2014* version of NEMS. Cumulative energy savings are the sum of the NES for each year in which product shipped during 2018 through 2047 continue to operate.

DOE has historically presented NES in terms of primary energy savings. In 2011, response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Science, DOE announced its intention to use FFC measures of energy use and emissions in the NIA and emissions analysis included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). After evaluating the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in the **Federal Register** in which DOE explained its determination that NEMS is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (August 17, 2012). Therefore DOE is using a NEMS-based approach to conduct FFC analyses for this rule. This approach is further described in appendix 12C of the final rule TSD.

GE and NEMA stated that there are no energy savings from switching from T8 lamps to T5 lamps. GE mentioned that, although the efficacies of T5 lamps are measured at high frequency and T8 lamps are measured at low frequency, the lamps have similar efficacies. (GE, Public Meeting Transcript, No. 49 at p. 163) NEMA commented that the efficiencies of T8 and T5 lamps are not directly comparable, because the efficiencies are measured differently. (NEMA, No. 54 at p. 14, p. 46) NEMA further added that the T5 lamp-ballast systems have the same power consumption as the equivalent T8 lamp-ballast systems. (GE, Public Meeting Transcript, No. 49 at p. 163; NEMA, No. 54 at p. 46)

DOE does not assume an automatic energy savings from switching from a T8 system to a T5 system. The energy use of a lamp-and-ballast system is calculated using the wattage of the installed lamps as well as the ballast factor and ballast luminous efficacy of the ballast on which the lamps are installed. DOE notes that, while it does not assume automatic energy savings of a T5 system compared to a T8 system, there are T5 lamp-and-ballast combinations (*e.g.,* low ballast factor ballast coupled with high efficacy lamps) that can have lower power consumption compared to a T8 system of similar light output. Further, DOE agrees that testing on high frequency circuits versus low frequency circuits impacts efficacy measurements. Per DOE test procedure, GSFLs are tested at low frequency unless only high frequency reference ballast specifications are available. The T5 MiniBP SO and HO lamps and 8-foot RDC HO should be tested on high frequency circuits, as those are the only specifications provided for these lamp types. The 4-foot MBP, 2-foot U-shaped and 8-foot SP slimline lamps should be tested on low frequency circuits. Therefore, within each product class, the lamp efficacies should be comparable, however, efficacies of lamps across product classes may not be comparable.

NEMA noted that PAR38 lamps that currently meet the proposed standard are not available through consumer channels and consumers would lose all reasonable options for PAR lamps. (NEMA, No. 54 at pp. 10) DOE understands that the availability of certain PAR lamps may be concentrated in the commercial sector. However, DOE does not find that to be a barrier to such lamps becoming available and used in other sectors of the market.

NEMA noted that setting new standards for 130 V IRLs would be a waste of resources and would skew energy savings estimates, as the product is no longer available. (NEMA, No. 54 at p. 54) DOE assumes in its analysis that there are no 130 V IRLs on the market. No energy savings from such products are assumed.

2. Net Present Value of Consumer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by consumers of the considered product are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor to calculate the present value of costs and savings. DOE calculated net savings each year as the difference between the base case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculated savings over the lifetime of products shipped during in the 2018–2047 period. The NPV was calculated as the difference between the present value of operating cost savings and the present value of total installed costs.

a. Total Annual Installed Cost

The total installed cost includes both the product price and the installation cost. For each product class, DOE utilized weighted-average prices for each of the lamp-and-ballast options, as well as installation costs, as developed in the engineering and LCC analyses. DOE calculated the total installed cost for each lamp-and-ballast option and determined annual total installed costs based on the annual shipments of lamps and ballasts determined in the shipments model. As noted in section VI.I, DOE assumed that GSFL and IRL prices decline slowly over the analysis period according to a learning rate developed from historical data.

As discussed in section VI.I, DOE considered two price scenarios in its modeling for GSFLs. The reference scenario assumes that rare earth prices remain fixed at their June 2014 level. The high rare earth price scenario assumes that rare earth prices are 4.5 times higher than the reference level, representing a value at the midpoint of the low pre-2010 baseline price and the peak 2011 price. The impact of the latter scenario on the NPV results is discussed in section VII.B.3.c.

NEEP expressed support for DOE's REO pricing analysis (NEEP, No. 57 at p. 3), but NEMA stated that DOE does not include an analysis of price

elasticity and consumer buying practices during previous REO shortages. NEMA also noted that the proposed standards would create an REO shortage. (NEMA, No. 54 at p. 34; Public Meeting Transcript, No. 49 at pp. 180–182)

DOE estimates that, for the amended standards, the annual increase in demand for REOs will be approximately 300 tons per year in the first 5 years, which amounts to less than 1 percent of the annual 8,000-ton global demand for REOs used in phosphors. DOE expects that demand will steadily decrease over the analysis period owing to the increasing LED market. Therefore, DOE does not believe that the amended standards will cause a significant change in the supply of REOs.

For IRLs, DOE conducted a sensitivity analysis on the potential impact on the rulemaking of a 10-fold increase in xenon prices. The impact of the scenario on the results is discussed in section VII.B.3.c.

b. Total Annual Operating Cost Savings

The per-unit energy savings were derived as described in section III.C. To calculate future electricity prices, DOE applied the projected trend in national average commercial and residential electricity prices from the *AEO 2014* Reference case, which extends to 2040, to the energy prices derived in the LCC and PBP analysis. DOE used the trend from 2030 to 2040 to extrapolate beyond 2040. In addition, DOE analyzed scenarios that used the trends in the *AEO 2014* Low Economic Growth and High Economic Growth cases. These cases have energy price trends that are, respectively, lower and higher in the long term compared to the Reference case. These price trends, and the NPV results from the associated cases, are described in chapter 12 of the final rule TSD.

DOE estimated that annual maintenance costs do not vary with efficacy within each product class, so they do not figure into the annual operating cost savings for a given standards case. DOE utilized the lamp disposal costs developed in the LCC analysis, along with the shipments model forecast of the lamp retirements in each year, to estimate the annual cost savings related to lamp disposal costs from extended lamp lifetime. In the NIA, DOE assumes that 30 percent of commercial consumers are subject to disposal costs.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. In accordance with OMB's guidelines on regulatory analysis,[67] 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; it 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. The 3-percent rate reflects the potential effects of standards on private consumption (*e.g.,* through higher prices for product 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 U.S. Treasury notes), which has averaged about 3 percent for the past 30 years.

K. Manufacturer Impact Analysis

DOE conducted separate MIAs for GSFLs and IRLs to estimate the financial impact of potential amended energy conservation standards on manufacturers of GSFLs and IRLs, respectively. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA relies on the GRIM, an industry cash-flow model customized for GSFLs and IRLs covered in this rulemaking. The key GRIM inputs are data on the industry cost structure, product costs, shipments, and assumptions about markups and conversion costs. The key MIA output is INPV. DOE used the GRIM to calculate cash flows using standard accounting principles and to compare changes in INPV between a base case and various TSLs (the standards cases). The difference in INPV between the base and standards cases represents the financial impact of potential amended energy conservation standards on GSFL and IRL manufacturers. Different sets of assumptions (scenarios) produce different INPV results. The qualitative part of the MIA addresses factors such as manufacturing capacity; characteristics of, and impacts on, any particular subgroup of manufacturers; impacts on competition; and the cumulative regulatory burden placed on GSFL and IRL manufacturers.

DOE outlined its complete methodology for the MIA in the previously published NOPR. Also, the complete MIA is presented in chapter 13 of the final rule TSD.

[67] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *www.whitehouse.gov/omb/circulars_a004_a-4.*

1. Manufacturer Production Costs

Manufacturing more efficacious lamps is typically more expensive than manufacturing baseline lamps due to the need for more costly components and materials used in the lamps as well as more extensive R&D to design the more efficacious lamps. The resulting changes in the manufacturer product costs (MPCs) of the representative lamps can affect the revenues, gross margins, and cash flows of lamp manufacturers. DOE strives to accurately model the potential changes in these production costs, as they are a key input for the GRIM and DOE's overall analysis. For the final rule, DOE updated the dollar year of the MPCs from 2012$, the dollar year used in the NOPR, to 2013$.

2. Shipment Projections

Changes in sales volumes and efficacy distribution of lamps over time can significantly affect manufacturer finances. The GRIM estimates manufacturer revenues based on total unit shipment projections and the distribution of shipments by efficacy level. For the final rule, DOE slightly altered the distribution of shipments based on interested party comments. DOE also updated the shipments to reflect the potential amended standard going into effect in 2018 as opposed to 2017, the standard compliance date used in the NOPR. This had a negligible effect on the MIA results. For the MIA, the GRIM used the NIA's annual shipment projections from 2015, the base year, to 2047, the end of the analysis period. For a complete description of the shipment analysis see chapter 11 of the final rule TSD.

3. Markup Scenarios

For the GSFL and IRL NOPR MIAs, DOE modeled two standards case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of potential amended energy conservation standards: (1) A flat, or preservation of gross margin, markup scenario and (2) a preservation of operating profit markup scenario. Each scenario leads to different manufacturer markup values, which when applied to the inputted MPCs, result in varying revenue and cash-flow impacts.

During the NOPR public meeting, Philips and Westinghouse commented that DOE should consider a third markup scenario for GSFLs where manufacturers are not able to maintain the absolute dollars on their GSFLs, as they do in the preservation of operating

profit, due to the increase in MPC of GSFLs as a result of amended energy conservation standards. Philips stated that amended standards could cause a total commoditization of the GSFL market, especially at max-tech, so the only way to differentiate products is by price. They also stated that since manufacturers have already established the pricing levels for these GSFLs, it is hard to justify an increase in the price after standards go into effect, as many of the big box retail stores are not going to accept a higher price for GSFLs. Both of the factors likely will result in manufacturers reducing their manufacturer markups. (Philips, Public Meeting Transcript, No. 49 at pp. 216–217; Westinghouse, Public Meeting Transcript, No. 49 at pp. 221–222) Based on the GSFL market pricing conditions described during manufacturer interviews, DOE concluded that the markup scenario recommended by Philips and Westinghouse is a realistic markup scenario that should be incorporated into the MIA to reflect the range of possible outcomes following GSFL standards. Therefore, DOE examined the INPV impacts of a two-tiered markup scenario in the final rule for the GSFL MIA as a result of these comments. The results of this additional markup scenario are displayed in section VII.B.2.a, along with the rest of the manufacturer INPV results.

In the two-tiered markup scenario, DOE assumed that higher efficacy GSFLs command a higher manufacturer markup and baseline efficacy GSFLs subsequently have a lower manufacturer markup. DOE estimated the manufacturer markups for GSFLs under a two-tier pricing strategy in the base case based on manufacturer interviews conducted as part of the NOPR analysis. In the standards case, DOE modeled the situation in which portfolio reduction reduces the margin of higher efficacy GSFLs as they become the new baseline efficacy products due to amended standards. This new two-tiered markup scenario represents the lower bound profitability markup scenario.

4. Product and Capital Conversion Costs

Amended energy conservation standards will cause manufacturers to incur one-time conversion costs to bring their production facilities and product designs into compliance. 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 R&D, testing, compliance, marketing, and other non-capitalized costs necessary to make product designs comply with amended standards. Capital conversion costs are one-time investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new product designs can be fabricated and assembled. For the final rule, DOE only updated the dollar year of the conversion costs from 2012$, the dollar year used in the NOPR, to 2013$.

During the NOPR public meeting GE and Philips commented that they believe that IRL manufacturers would be unwilling to make large investments to make sure IRLs comply with energy conservation standards at TSL 1, since the market is changing so rapidly to LEDs and manufacturers might not ever be able to recover any substantial investment put in upgrading their IRLs. (Philips, Public Meeting Transcript, No. 49 at p. 231 & GE, Public Meeting Transcript, No. 49 a pp. 231–232) DOE understands manufacturers' concern with making significant investments in a product that is rapidly losing market share and projected to experience a significant decline in shipments over the analysis period. DOE took these manufacturers' concerns into account when selecting the standards for IRLs in this final rule.

5. Other Comments From Interested Parties

During the NOPR public meeting and comment period, interested parties commented on the assumptions, methodology, and results of the NOPR MIA. DOE received comments about the potential high cost to manufacturers versus the relatively low energy savings for the NOPR standards proposed; the potential negative impacts on competition due to standards; and the potential impact of standards on alternative lighting technologies. These comments are addressed in the following sections.

a. High Cost to Manufacturers Versus Relatively Low Energy Savings

NEMA and GE commented that the pending IRL standards as proposed in the NOPR would have a significant negative impact on IRL manufacturers' INPV while only marginally contributing to the projected energy savings. (NEMA, No. 54 at pp. 3–5 & GE, Public Meeting Transcript, No. 49 at pp. 217–218) DOE agrees that as proposed in the NOPR, the IRL standards at TSL 1 could reduce IRL manufacturers' INPV by up to 29.5 percent and would save an estimated 0.013 quads. DOE carefully examines all potential burdens, such as a potential decrease in manufacturers' INPV and the cumulative regulatory burden placed on manufacturers by additional regulations, against potential benefits, such as energy savings and consumer benefits, when determining final standards. Both the benefits and burdens for this rulemaking were closely examined before making a final decision regarding the IRL standards. See section VII.C.3 of this final rule for a complete description of the potential benefits and burdens of IRL standards.

b. Impacts on Competition

A couple of interested parties commented that DOE should use the Herfindahl-Hirschman Index (HHI) to examine whether potential energy conservation standards could significantly lessen competition in an industry. (Kidwell, No. 53 at pp. 1–6 & Miller, No. 50 at pp. 10–11, 13) The HHI is used by DOJ to examine market consolidation in the case of potential mergers. In these cases there is clear market share information before and after the event being analyzed, a potential merger. However, when examining potential energy conservation standards it is more difficult to accurately predict how individual manufacturers will respond to potential standards.

The decision of an individual manufacturer to make an upfront investment in order to comply with potential standards and remain in an existing market as opposed to exit the market is a complex business. For the GSFL and IRL rulemakings there is no technical reason any of the major manufacturers could not continue to manufacture compliant products, could maintain their current market share within an industry, or would be forced to exit the market. DOE acknowledges that both the GSFL and IRL markets are moderately concentrated markets, according to the HHI. However, based on manufacturer interviews, DOE does not believe there is any technical or proprietary reason the market share of either the GSFL or IRL markets would substantially change due to the energy conservation standards established in this final rule. Therefore, an analysis using the HHI would not be able to determine if standards lessened competition, since the market share before the standards would be similar to the market share after the standards.

c. Impact of GSFL and IRL Standards on Alternative Lighting Technologies

NEEP commented that the MIA should account for the potential growth in other lighting technologies (*i.e.,* LEDs), since alternative lighting sales are projected to take market share away from GSFLs and IRLs in the future.

(NEEP, No. 57 at p.3) DOE's shipment analysis does predict that LEDs and other alternative lighting technologies will significantly take more and more market share away from GSFLs and IRLs in future years. This growing LED market share is modeled in the base case of the shipment analysis when no energy conservation standards are enacted, and is therefore independent from any GSFL or IRL standards that are being analyzed in this rulemaking.

The shipment analysis does not anticipate that consumers will shift to LEDs as a result of potential GSFL or IRL standards and therefore the total number of lighting hours fulfilled by GSFLs and IRLs is the same in the base case as in the standards cases. Since DOE is attempting to model the direct impacts of the GSFL and IRL standards independently from other external factors that are occurring in the GSFL and IRL markets, DOE does not believe it should include revenue from the sale of alternative lighting technologies in the MIA for GSFLs and IRLs. See the shipments analysis in chapter 11 of the final rule TSD for a complete description of how GSFL and IRL shipments change in response to potential GSFL and IRL standards.

6. Manufacturer Interviews

DOE interviewed manufacturers representing more than 90 percent of covered GSFL and more than 80 percent of covered IRL sales in the United States. The NOPR interviews were in addition to the preliminary interviews DOE conducted as part of the preliminary analysis. DOE outlined the key issues for the rulemaking for GSFL and IRL manufacturers in the NOPR. 79 FR at 24136–7 (April 29, 2014) DOE considered the information received during these interviews in the development of the NOPR and this final rule. Comments on the NOPR regarding the impact of potential amended standards on manufacturers were discussed in the previous sections. DOE did not conduct interviews with manufacturers between the publication of the NOPR and this final rule. Also, DOE did not receive any comments on the manufacturer key issues identified in the NOPR.

L. 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 GSFLs and IRLs. In addition, DOE estimates 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)),[68] the FFC analysis also includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O), both of which are recognized as greenhouse gases.

DOE primarily conducted the emissions analysis using emissions factors for CO_2 and most of the other gases derived from data in *AEO 2014.* Combustion emissions of CH_4 and N_2O were estimated using emissions intensity factors published by the Environmental Protection Agency (EPA), GHG Emissions Factors Hub.[69] 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 14 of the final rule 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 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,[70] DOE used GWP values of 28 for CH_4 and 265 for N_2O.

EIA prepares the *Annual Energy Outlook* using NEMS. Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2014* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of October 31, 2013.

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.[71] In 2011, EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (Aug. 8, 2011). On August 21, 2012, the DC Circuit issued a decision to vacate CSAPR.[72] The court ordered EPA to continue administering CAIR. The emissions factors used for this rule, which are based on *AEO 2014,* assume that CAIR remains a binding regulation through 2040.[73]

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Beginning in 2016, however, SO_2 emissions will decline significantly as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO 2014* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection

[68] DOE's FFC was amended in 2012 for reasons unrelated to the inclusion of CH_4 and N_2O. 77 FR 49701 (Aug. 17, 2012).

[69] *http://www.epa.gov/climateleadership/inventory/ghg-emissions.html.*

[70] 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.

[71] 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).

[72] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012), *cert. granted,* 81 U.S.L.W. 3567, 81 U.S.L.W. 3696, 81 U.S.L.W. 3702 (U.S. June 24, 2013) (No. 12–1182).

[73] 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. The Supreme Court held in part that EPA's methodology for quantifying emissions that must be eliminated in certain states due to their impacts in other downwind states was based on a permissible, workable, and equitable interpretation of the Clean Air Act provision that provides statutory authority for CSAPR. See *EPA* v. *EME Homer City Generation,* No 12–1182, slip op. at 32 (U.S. April 29, 2014). On October 23, 2014, the DC Circuit lifted the stay of CSAPR and CSAPR is scheduled to go into effect (and the CAIR will sunset) as of January 1, 2015. Because DOE is using emissions factors based on *AEO 2014* for this rule, the final rule assumes that CAIR, not CSAPR, is the regulation in force. The difference between CAIR and CSAPR is not relevant for the purpose of DOE's analysis of SO_2 emissions.

systems installed by 2016. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Under the MATS, emissions will be far below the cap established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that energy efficiency standards will 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.[74] 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 rule for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps. DOE estimated mercury emissions reduction using emissions factors based on *AEO 2014,* which incorporates the MATS.

M. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation similar to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this rulemaking.

For this rule, DOE is relying on a set of values for the social cost of carbon (SCC) that was developed by an interagency process. A summary of the basis for these values is provided in the following section, and a more detailed description of the methodologies used is provided as an appendix to chapter 15 of the final rule TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of carbon dioxide. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in carbon dioxide emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b)(6) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), agencies must, to the extent permitted by law, assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions that have small, or ''marginal,'' impacts on cumulative global emissions. 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 carbon dioxide emissions, the analyst faces a number of challenges. A report from the National Research Council points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of greenhouse gases; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise serious questions of science, economics, and ethics and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing carbon dioxide emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC 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.

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.

[74] CSAPR also applies to NO_X, and it would supersede the regulation of NO_X under CAIR. As stated previously, the current analysis assumes that CAIR, not CSAPR, is the regulation in force. The difference between CAIR and CSAPR with regard to DOE's analysis of NO_X is slight.

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.[75] Three sets of values are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from climate change further out in the tails of the SCC distribution. The values grow in real terms over time. Additionally, the interagency group determined that a range of values from 7 percent to 23 percent should be used to adjust the global SCC to calculate domestic effects,[76] although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table VI.11 presents the values in the 2010 interagency group report, which is reproduced in appendix 15A of the final rule TSD.

TABLE VI.11—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

The SCC values used for the rule were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[77] Table VI.12 shows the updated sets of SCC estimates from the 2013 interagency update in five-year increments from 2010 to 2050. Appendix 15B of the final rule TSD provides the full set of values. The central value that emerges is the average SCC across models at 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE VI.12—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128

[75] *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. *http://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

[76] 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.

[77] *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. *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

TABLE VI.12—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050—Continued

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
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 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 Gross Domestic Product price deflator. For each of the four SCC cases specified, the values used for emissions in 2015 were $12.0, $40.5, $62.4, and $119 per metric ton avoided (values expressed in 2013$). DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

The Associations objected to DOE's continued use of the SCC in the cost-benefit analysis performed in connection with this proposed rule, and they believe the SCC should be withdrawn as a basis for the rule. They stated that the SCC calculation should not be used in any rulemaking or policymaking until it undergoes a more rigorous notice, review, and comment process. (The Associations, No. 51 at p. 4) In contrast, the Joint Commenters stated that the current SCC values are sufficiently robust and accurate to continue to be the basis for regulatory analysis going forward. They argued that, if anything, current values are significant underestimates of the SCC. They stated that the interagency working group's analytic process was science-based, open, and transparent, and the SCC is an important and accepted tool for regulatory policy-making, based on well-established law and fundamental economics. (The Joint Comment, 48 at p. 1)

NEMA presented a critique—based largely on the writing of Robert Pindyck of the Massachusetts Institute of Technology—of the integrated assessment models (IAMs) used in projecting future damages from CO_2 emissions. The critique included strong criticisms of the IAMs' climate sensitivity analysis and damage function. NEMA argued that given the enormous uncertainty in the IAMs, these models—even ''averaged'' as the Interagency Working Group has done—are poor tools for agency decision-making, particularly with respect to products regulated by EPCA that are not themselves a source of emissions. (NEMA, No. 54 at pp. 39–44)

DOE acknowledges the limitations of the SCC estimates, which are discussed in detail in the 2010 interagency working group's report. Specifically, uncertainties in the assumptions regarding climate sensitivity, as well as other model inputs such as economic growth and emissions trajectories, are discussed and the reasons for the specific input assumptions chosen are explained. However, the three integrated assessment models used to estimate the SCC are frequently cited in the peer-reviewed literature and were used in the last assessment of the IPCC. In addition, new versions of the models that were used in 2013 to estimate revised SCC values were published in the peer-reviewed literature (see appendix 15B of the final rule TSD for discussion). Although uncertainties remain, the revised estimates used for this rule are based on the best available scientific information on the impacts of climate change. The current estimates of the SCC have been developed over many years, and with input from the public. In November 2013, OMB announced a new opportunity for public comment on the interagency technical support document underlying the revised SCC estimates. 78 FR 70586. OMB is reviewing comments and considering whether further revisions to the SCC estimates are warranted. DOE stands ready to work with OMB and the other members of the interagency working group on further review and revision of the SCC estimates as appropriate.

NEMA stated that the monetized benefits of carbon emission reductions are informative at some level, but should not be considered as determinative in the Secretary's decision-making under EPCA. NEMA believes that DOE should base its net benefit determination for justifying a particular energy conservation on the traditional criteria relied upon by DOE: impacts on manufacturers, consumers, employment, energy savings, and competition. (NEMA, 54 at pp. 38 and 44) In a similar vein, the Associations believe the SCC should be withdrawn as a basis for the proposed rule. (The Associations, No. 51, p. 4)

The monetized benefits of carbon emission reductions are one factor that DOE considers in its evaluation of the economic justification of proposed standards. As shown in Table VII.58, the benefits of these standards in terms of

consumer operating cost savings exceed the incremental costs of the standards-compliant products. The benefits of CO_2 emission reductions were considered by DOE, but were not determinative in DOE's decision to adopt these standards, nor were they a primary basis of that decision.

2. Valuation of Other Emissions Reductions

As noted previously, DOE has taken into account how amended energy conservation standards would reduce site NO_X emissions nationwide and increase power sector NO_X emissions in those 22 States not affected by the CAIR. DOE estimated the monetized value of net NO_X emissions reductions resulting from each of the TSLs considered for this rule based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $476 to $4,893 per ton in 2013$.[78] DOE calculated monetary benefits using a medium value for NO_X emissions of $2,684 per short ton 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. It has not included monetization in the current analysis.

N. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in installed electricity capacity and generation that would result for each TSL. The utility impact analysis is based on published output from NEMS. Each year, NEMS is updated to produce the AEO reference case as well as a number of side cases that estimate the economy-wide impacts of changes to energy supply and demand. DOE uses those published side cases that incorporate efficiency-related policies to estimate the marginal impacts of reduced energy demand on the utility sector. The output of this analysis is a set of time-dependent coefficients that capture the change in electricity generation, primary fuel consumption, installed capacity and power sector emissions due to a unit reduction in demand for a given end use. These coefficients are multiplied by the stream of energy savings calculated in the NIA to provide estimates of selected utility impacts of new or amended energy conservation standards. Chapter 16 of the final rule TSD describes the utility impact analysis in further detail.

O. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the product subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more efficient product. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on the purchase of new product; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy. 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). Based on the BLS data, DOE expects that net national employment may increase because of shifts in economic activity resulting from amended standards.

For the standard levels considered for the final rule, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies, Version 3.1.1 (ImSET).[79] ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run. DOE used ImSET only to estimate short-term employment impacts. For more details on the employment impact analysis, see chapter 17 of the final rule TSD.

P. Proposed Standards in April 2014 NOPR

In the NOPR, DOE proposed to adopt new and amended standards for all GSFL product classes and amended standards for all IRL product classes. For GSFLs, DOE proposed adopting TSL 5, which represented the max tech and maximum NES. Specifically, TSL 5 would set energy conservation standards at EL 2 for the 4-foot MBP, 8-foot SP slimline, 8-foot RDC HO, and T5 MiniBP SO product classes. For IRLs, DOE proposed adopting TSL 1, which was EL 1 and represented max tech. DOE received general comments on the proposed standards.

Miller stated that there are three problems that DOE states it is trying to address by setting efficacy standards for GSFLs and IRLs: lack of consumer information, asymmetric information about the benefits of energy-efficient commercial appliances, and externalities related to greenhouse gas

[78] U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities* (2006) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/2006_cb/2006_cb_final_report.pdf*).

[79] Roop, J. M., M. J. Scott, and R. W. Schultz, *ImSET: Impact of Sector Energy Technologies,* 2005. Pacific Northwest National Laboratory. Richland, WA. Report No. PNNL–15273. *<http://www.pnl.gov/main/publications/external/technical_reports/PNNL-15273.pdf>.*

emissions. However, two of the problems cited by DOE—lack of consumer information about energy efficiency and information asymmetry—are not addressed in its proposed efficacy standards. Additionally, DOE does not explain why GSFL and IRL consumers would suffer from either informational deficits or cognitive biases that would cause them to purchase products with high lifetime costs without demanding higher price, higher efficacy products. Miller further states that this asymmetric information, if it exists, could be remedied by improved labeling or other types of consumer education campaigns rather than banning products from the marketplace, especially given the projected penetration rates of LEDs. (Miller, No. 50 at p. 11)

Section 1(b)(1) of Executive Order 12866, ''Regulatory Planning and Review'' requires Federal agencies 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. 58 FR 51735 (Oct. 4, 1993) Section 1(b) also states that agencies should adhere to the listed principles to the extent permitted by law. DOE's standards rulemaking process is intended to fulfill the requirements of EPCA. Any amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) The proposed standards, and the standards established in this final rule, meet these criteria. By adopting standards that achieve maximum improvement in energy efficiency that is technologically feasible and economically justified, this rulemaking is indirectly addressing any potential lack of consumer information regarding energy efficiency and asymmetric information regarding these products. Alternative remedies proposed by Miller, such as labeling and consumer information, are covered by other programs established by EPCA. (42 U.S.C. 6294 and 42 U.S.C. 6307) However, the existence of such programs does not obviate DOE's legal requirement to adhere to the standards rulemaking process laid out in EPCA.

Miller stated that DOE's approach is contrary to instruction to agencies in Executive Order 13563, which requires agencies to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. Miller noted that this included warnings, appropriate default rules, and disclosure requirements, and providing clear and intelligible information to the public. (Miller, No. 50 at p. 11)

DOE identified and evaluated non-regulatory approaches to improving the efficacy of GSFLs and IRLs, as described in chapter 18 of the final rule TSD. DOE currently does not have statutory authority to implement most of these alternatives. Furthermore, DOE concluded that all of the non-regulatory alternatives would save less energy and have a lower NPV than adopted standards.

Regarding warnings, default rules, and disclosure requirements, in this final rule notice DOE clearly describes amendments to existing standards being adopted in this rule and explains that compliance to the new and amended standards will be required three years after the publication date of this notice. See section VI.G.13 for compliance date information. DOE has held public meetings and invited comments from stakeholders in the framework, preliminary analysis, and NOPR stages of this rulemaking and held interviews with manufacturers at the preliminary and NOPR stages. At each stage DOE has published documents, including this final notice, that clearly lay out the methodology, assumptions, analysis, and results, as well as describe in detail comments received from stakeholders and DOE's responses.

Miller also stated that DOE's proposal does not maintain flexibility and freedom of choice for purchasers of GSFLs and IRLs, and the resulting benefits do not justify the costs as required both by statute and by Executive Order. (Miller, No. 50 at p. 12)

DOE determined that the proposed levels in the NOPR and the standard being adopted do not lessen the utility or performance of GSFLs and IRLs. DOE has ensured that the typical characteristics of lamps meeting the existing standard, such as shape, CCT, CRI, lifetime, and lumen package are represented at the higher efficacy levels proposed in the NOPR and being adopted in this rule. Further, consumers will continue to have a range of purchasing choices under the adopted standards. For further comments and discussion on the impact of higher efficacy levels on product availability, see section VI.D.2 for GSFLs and section VI.D.3 for IRLs.

Miller stated that if DOE proceeds to issue the standards as proposed in the NOPR, DOE should commit to retrospective review to assess whether the rule meets the statutory standard of achieving the maximum improvement in energy efficiency that is both technologically feasible and economically justified, while also resulting in a significant conservation of energy. Miller outlined a number of metrics to consider in a retrospective review. These included quantifying environmental benefits and security, reliability, and costs of maintaining the nation's energy system as a result of standards; and potentialities such as a rebound effect, impedance of LED technology, adverse impacts on manufacturers, increased mercury, and loss of product utility and optionality as a result of standards. (Miller, No. 50 at p. 12) Miller also noted that DOE should commit to measuring metrics and assumptions of this final rule on a regular basis and collecting information for this purpose. (Miller, No. 50 at p. 9)

As stated in DOE's Final Plan for the Retrospective Review of Existing Rules, dated August 23, 2011,[80] DOE is committed to maintaining a consistent culture of retrospective review and analysis. In the plan, DOE sets forth a process for identifying significant rules that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. Once such rules have been identified, DOE will, after considering public input on any proposed change, determine what action is necessary or appropriate. DOE will continually engage in review of its rules to determine whether there are burdens on the public that can be avoided by amending or rescinding existing requirements. DOE's consideration of appliance standards within the context of retrospective review is discussed at pages 9–10 of the final plan. Since the release of its final plan, DOE has issued a number of reports documenting its progress in the retrospective review of its regulations.[81] DOE has also issued a number of Requests for Information seeking input from the public on its retrospective review efforts, most recently on July 3, 2014. 79 FR at 37963 (April 29, 2014). DOE encourages all interested parties to provide input in DOE's retrospective review process.

CA IOUs and ASAP endorsed the NOPR analyses and stated they would support a final rule similar to the rule proposed in the NOPR. (CA IOUs, Public Meeting Transcript, No. 49 at p. 245; ASAP, Public Meeting Transcript,

[80] Available at *http://energy.gov/gc/services/open-government/restrospective-regulatory-review*.

[81] These reports are also available at *http://energy.gov/gc/services/open-government/restrospective-regulatory-review*.

No. 49 at pp. 16, 244) EEOs stated the proposed standards would build on the achievements of the 2009 Lamps Rule, which had increased minimum efficacy by 19 percent for GSFLs and 62 percent for IRLs, by further increasing efficacy by 4 percent for GSFLs and 8 percent for IRLs. Specifically, EEOs highlighted the potential savings from the proposed standards for GSFLs, but noted that potential savings from proposed IRL standards are also significant. EEOs also pointed out that the proposed standards were cost-effective for both commercial and residential consumers. (EEOs, No. 55 at p. 2) GE, however, found the standard levels proposed in the NOPR problematically high, especially with regards to the increased burden on the industry. (GE, Public Meeting Transcript, No. 49 at p. 243)

When considering establishing new or amending existing standards, DOE weighs the benefits and burdens of such standards. In the NOPR, for GSFL TSL 5 and IRL TSL 1, DOE determined that the benefits of energy savings, positive NPV of total consumer benefits, positive impacts on consumers, emission reductions and the estimated monetary value of the emissions reductions would outweigh the potential reduction in industry value. In the following sections DOE discusses comments received specifically on the proposed standards for GSFLs and IRLs.

1. GSFLs Proposed Standards

DOE also received several comments specific to the GSFL standards proposed in the NOPR. ASAP noted that the proposed GSFL standards, in combination with the GSFL standards from the 2009 Lamps Rule and the ballast standards from the 2011 Ballast Rule, would result in substantial energy savings, in particular due to their impact on the commercial sector. ASAP stated and CA IOUs agreed that this is an example of how standards can couple with utility-based and voluntary programs to shift lighting efficiency. (ASAP, Public Meeting Transcript, No. 49 at pp. 13–15; CA IOUs, Public Meeting Transcript, No. 49 at p. 20) CA IOUs further commented that the proposed GSFL standards are designed to push the fluorescent lamp market to ''best-in-class'' and the resulting energy savings estimate of 3.5 quads is significant. (CA IOUs, No. 56 at pp. 1–2) NEEP noted that the proposed max-tech efficacy levels for GSFL would bring over 2 TWhs of annual electricity reduction to the NEEP region in 2020 and more than 100 MWs of capacity reductions (9.8TWhs and 573 MW nationally). NEEP continued that the very aggressive energy efficiency programs administered in the region have made the proposed standards practical. (NEEP, No. 57 at p. 1)

NEMA, however, disagreed, stating that the proposed higher performance levels would result in the unavailability of extended life lamps, inability for manufacturers to repeatedly and consistently produce products for testing and enforcement problems, price increases, minimal efficiency gains, consumer diversion to full-wattage lamps with reduced energy savings, and a significant financial impact to U.S. industry without sufficient payback. (NEMA, No. 54 at p. 16)

As previously noted, in the NOPR analysis, DOE proposed TSL 5 for GSFLs, which required adopting the proposed EL 2 for the 4-foot MBP lamps, 8-foot slimline lamps, 8-foot RDC HO, 4-foot T5 MiniBP SO, and EL 1 for 4-foot T5 MiniBP HO. 79 FR 24068, 24174 Based on an assessment of catalog and certification data, DOE found that these levels are technologically feasible (see chapter 5 of the NOPR TSD for the further details on the engineering analysis) and maintained the GSFLs with typical lifetimes (see section VI.D.2.g for further discussion). Although DOE proposed TSL 5 in the NOPR, as discussed in section VII.C.1, in this final rule DOE found that the burdens of TSL 5 outweigh the benefits and is therefore adopting a lower standard level.

NEMA recommended alternative standards for the GSFL product classes than those proposed in the NOPR. For lamps with CCT ≤ 4,500 K, NEMA recommended that the current standards be maintained for the 4-foot MBP (89.0 lm/W) and 2-foot U-shaped (84.0 lm/W) product classes and standards be amended to 98.0 lm/W for the 8-foot SP slimline product class; 94.0 lm/W for the 8-foot RDC HO product class; 90.0 lm/W for the 4-foot T5 MiniBP SO product class; and 80.0 lm/W for the 4-foot T5 MiniBP HO product class. (NEMA, No. 54 at pp. 27–28) For lamps with CCT > 4,500 K, NEMA recommended that the current standards be maintained for 4-foot MBP lamps (88 lm/W); 2-foot U-shaped lamps (81 lm/W); and 8-foot SP slimline lamps (93.0 lm/W) and standards be amended to 90 lm/W for the 8-foot RDC HO product class; 84 lm/W for the 4-foot T5 MiniBP SO; and 76 lm/W for the 4-foot T5 MiniBP HO product class. (NEMA, No. 54 at p. 28)

CA IOUs noted that DOE has proposed a standard for the 4-foot MBP lamps that can be achieved by an 800 series, full-wattage, and high-lumen T8 lamp. CA IOUs mentioned that their rebate and incentive programs have encouraged the adoption of these third generation T8 lamps and have utilized them in cost-effective installations to achieve large energy savings, and also mentioned that the standards would further encourage this market transformation without adversely impacting product performance. (CA IOUs, No. 56 at pp. 1–2) NEEP commented that about two-thirds of the savings would be lost if the levels of the 4-foot MBP lamps were weakened, therefore DOE should maintain these levels as the higher performing lamps are available and cost-effective. (NEEP, No. 57 at p. 1)

Based on catalog and certification data, for the 4-foot MBP product class DOE determined that there were two higher efficacy levels than the existing standard: EL 1 representing a standard 800 series full wattage lamp and EL 2 representing an improved 800 series full wattage lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. DOE developed standards for the 2-foot U-shaped product class by scaling from standards for the 4-foot MBP product class. DOE developed a scaling factor based on the efficacy difference of comparable 4-foot MBP and 2-foot U-shaped product lines, and in this final rule confirmed this scaling factor using updated certification data. For this final rule, DOE used updated catalog and certification data for all products and confirmed the higher efficacy levels above the existing standard for the 4-foot MBP and 2-foot U-shaped lamps. Therefore, DOE found that higher efficacy levels than the current standards for the 4-foot MBP, 2-foot U-shaped, and 8-foot SP slimline lamps are feasible and reflect the performance of products currently on the market. See section VI.D.2.g for the detailed engineering analysis of these lamp types.

In the NOPR for lamps with CCT ≤ 4,500 K, the proposed TSL 5 required EL 2 at 92.4 lm/W for 4-foot MBP lamps; EL 2 at 99.0 lm/W for the 8-foot SP slimline lamps; EL 2 at 97.6 lm/W for the 8-foot RDC HO lamps; EL 2 at 97.1 lm/W for the 4-foot T5 MiniBP SO lamps; and EL 1 at 82.7 lm/W for the 4-foot T5 MiniBP HO lamps. DOE determined the efficacies at these levels based on commercially available lamps using both catalog and certification data, and therefore found that these efficacies are accurate representation of higher performing products on the market. For this final rule, DOE analyzed updated catalog and certification data and confirmed these efficacy levels with the exception of T5 MiniBP SO lamps which was adjusted to be 95 lm/W

based on certification data. See section VI.D.2.g for the detailed engineering analysis of these lamps.

In the NOPR, for lamps with CCT > 4,500 K, the proposed TSL 5 required EL 2 at 90.6 lm/W for 4-foot MBP lamps; EL 2 at 94.1 lm/W for the 8-foot SP slimline lamps; EL 2 at 95.6 lm/W for the 8-foot RDC HO lamps; EL 2 at 91.3 lm/W for the 4-foot T5 MiniBP SO lamps; and EL 1 at 78.6 lm/W for the T5 MiniBP HO lamps. Standards for GSFLs with CCT > 4,500 K were scaled from corresponding GSFLs with CCT ≤ 4,500 K. In the NOPR, DOE developed scaling factors based on the differences in efficacies between less than 4,500 K and greater than 4,500 K comparable products on the market. DOE verified the developed scaling factors using certification data. For this final rule, DOE adjusted certain scaling factors based on updated certification data, which resulted in the following changes for lamps with CCT > 4,500 K: EL 2 for the 4-foot MBP was adjusted to 89.3 lm/W; EL 2 for the 8-foot SP slimline was adjusted to 96.0 lm/W; EL 2 for the 8-foot RDC HO lamps was adjusted to 93.7 lm/W; EL 2 for the 4-foot T5 MiniBP SO was adjusted to 89.3 lm/W; and EL 1 for the T5 MiniBP HO was adjusted to 76.9 lm/W. See chapter 5 of this final rule TSD for the detailed engineering analysis of GSFL scaling.

DOE conducted a comprehensive analysis of all GSFL products available on the market and utilized both catalog and certification data to determine the efficacy levels for each product class. After weighing the benefits and burdens in this final rule analysis, DOE is adopting TSL 4 which will require EL 2 for the 4-foot MBP lamps and the 4-foot T5 MiniBP SO lamps; EL 1 for the 4-foot T5 MiniBP HO lamps; and maintain existing standards for the 8-foot SP slimline and 8-foot RDC HO lamps. See section VII.C.1 for a discussion on the benefits and burdens of GSFL standards.

People's Republic of China (P.R. China) commented that for the 8-foot SP slimline lamps with a CCT > 4,500 K the standard proposed in the NOPR increases existing standards by 1.2 percent, while for the 4-foot T5 MiniBP SO lamps with a CCT ≤ 4,500 K the existing standard is increased by 12.9 percent. P.R. China questioned the range of increase in efficacy in the proposed standards for these two lamp types. (P.R. China, No. 58, p. 3)

As mentioned previously, DOE considers the 8-foot SP slimline with CCT > 4,500 K and the 4-foot T5 MiniBP SO with CCT ≤ 4,500 K as two separate product classes due to their difference in utility and efficacy. See section VI.C.1 for more details on GSFL product classes. Based on its review of catalog and certification data, DOE determined that there were 4-foot T5 MiniBP SO lamps available on the market with efficacies much higher than their existing standard compared to the commercially available 8-foot SP slimline lamps.

NEMA commented that rare earth availability remains volatile; particularly the phosphor mix used in argon-based 92+ lm/W lamps. NEMA remarked that forcing all products to use specialized rare earth phosphor mixes is extremely risky for argon-based lamps as the proposed standard is at the high end of the technology limits, and DOE cannot risk having only krypton based lamps available due to their lack of dimmability. Thus, EL 2 cannot be used for 4-foot MBP lamps. (NEMA, No. 54 at p. 14)

EL 2 for the 4-foot MBP lamps was based on the performance of full wattage, argon-based lamps that are currently on the market. DOE acknowledges that supply and demand of rare earth phosphors should be considered when evaluating amended standards for GSFLs. DOE conducted LCC and NIA sensitivities for a scenario with increased rare earth phosphor prices in the NOPR. With regards to impacts on consumers, DOE found that proposed efficacy levels remained achievable even with increased phosphor prices. In the NIA, DOE found that the ranking of TSLs by NPV remained unchanged in the high rare earth phosphor price scenario. For this final rule, DOE conducted these sensitivities with an updated phosphor price and reached the same conclusions. See chapter 12 and appendix 7B of the final rule TSD for more detail on DOE's assessment of impact of rare earth phosphors.

DOE also received a comment regarding the LCC results for GSFLs and the impact on the proposed standard. For 8-foot RDC HO lamps, Westinghouse questioned the economic justification behind consumers losing 16–17 percent of the value of the product over its average lifetime. (Westinghouse, Public Meeting Transcript, No. 49 at p. 152)

The LCC analysis is one of the factors that DOE considers when weighing the benefits and burdens of TSLs. In the NOPR the 8-foot RDC HO product class showed negative LCC savings at the proposed TSL 5. In the final rule, DOE is adopting TSL 4 which does not amend the standard level for 8-foot HO lamps. As discussed below, TSL 4 includes a combination of ELs that maximizes NPV; in addition to 8-foot HO lamps, TSL 4 also does not amend the standard level for 8-foot slimline lamps.

Additionally, DOE received a comment on choosing between TSL 4 and TSL 5, as presented in the NOPR. NEMA commented that TSL 5 is very similar to TSL 4 in national energy use, but has a significantly higher conversion cost for manufacturers and the most negative INPV. NEMA commented that the NOPR shows a modest national energy savings difference between TSL 4 and TSL 5 in the proposed GSFL rule, as computed by the DOE for the NOPR (3.0 v. 3.5 quads over 30 years). NEMA claimed that the reason for this is because, considering all the assumptions and estimates used to calculate the savings, the energy savings estimate of both levels is within +/− 5 percent or well within the uncertainty of both projections. (NEMA, No. 54 at p. 27) NEMA further claimed that there is more manufacturing investment required to go from TSL 4 ($13M) to TSL 5 ($38.6M) (79 FR at 24160, Table VII.30 [April 29, 2014]), and DOE has a legislative and executive mandated obligation to reduce or eliminate the regulatory burden of TSL 5. NEMA claimed that TSL 5 would require an additional investment in production lines that are projected to decline in future years without generating meaningful incremental national energy savings and that this is not an acceptable or reasonable decision for the U.S. government to make. NEMA commented that the money would be better invested into research in new technologies with a larger energy savings impact. (NEMA, No. 54 at p. 27)

NEMA noted that that primary difference between TSL 4 and TSL 5 is that the 8-foot slimline and 8-foot RDC HO categories jump from EL 0 to EL 2, but NEMA added that they should not be moved any higher than EL 1, as they would not increase national energy savings and will be costly to the manufacturer. NEMA further commented that it is unreasonable to assume that manufacturers or consumers would make the investment to switch from a T8 to T5 system, nor from 8-foot fluorescent systems to T5 systems, due to the cost involved with their lack of interchangeability. NEMA stated that DOE must remove these false assumptions and restructure the energy savings projections. (NEMA, No. 54 at p. 15)

In the NOPR, TSL 4 represented the maximum NPV that was achievable in the analysis from any combination of ELs. DOE determined that the increase in energy savings at TSL 5 compared to TSL 4, as well as generally positive

impact on consumers, emission reductions and the estimated monetary value would outweigh the potential reduction in industry value experienced at TSL 5 compared to TSL 4. Therefore, DOE proposed TSL 5 as it represented maximum national energy savings. Further, the uncertainty in key variables, such as energy price forecast or product price trends would generally affect TSL 4 and TSL 5 in the same way, so DOE would expect the relative ranking to remain.

The switching from 4-foot MBP or 8-foot SP slimline systems was allowed only in new construction and renovation and based on DOE research that indicated there are comparable luminaires. DOE is aware that there are physical and optical differences between T8 and T5 lamps and the potential for substitution of 4-foot MBP T8 or 8-foot SP slimline T8 with T5 MiniBP SO lamps is only assumed at the time of new construction and renovation, when a new luminaire would be specified. DOE's analysis indicates that there exist T5 luminaires that compete directly with 4-foot MBP T8 luminaires in most applications in the largest luminaire markets (*e.g.,* commercial offices, education, industrial) and in some cases, luminaire manufacturers offer essentially identical luminaires in 4-foot MBP T8 and T5 MiniBP versions. For these same reasons, DOE also assumed switching between 8-foot SP slimline with T5 MiniBP SO is possible. See appendix 11C of the final rule TSD for examples of these luminaires and a discussion of DOE's analysis of the substitution potential for 4-foot MBP and T5 MiniBP SO Lamps.

Further, in this final rule, DOE modified TSL 4 slightly so that maximum NPV is achieved from a combination of ELs that minimizes the net burden on a consumer for a product class that may have negative NPV in the absence of product class switching (*e.g.,* consumers substituting a T8 system with T5 system). This modification resulted in only one EL change between the TSL 4 proposed in the NOPR and the TSL 4 presented in this rule: For the 8-foot RDC HO product class the efficacy level in the TSL 4 presented for this final rule is at the baseline rather than EL 1. DOE is adopting TSL 4 in this final rule for GSFLs. See section VII.C.1 for a discussion on the benefits and burdens of GSFL standards.

2. IRL Proposed Standards

DOE received several comments regarding the proposed TSL 1 for IRLs in the NOPR. NEMA commented that 130 V lamps are no longer available, so there is no reason to establish a new standard for them since there will be no energy savings. (NEMA, Public Meeting Transcript, No. 49 at pp. 37–38) Philips added that 130 V lamps cannot be produced. (Philips, Public Meeting Transcript, No. 49 at p. 37) GE stated that the proposed 130 V lamp standard exceeds the capability of making a practical lamp as the proposed efficacy level of the 130 V lamps is 15 percent higher than that for the 120 V lamps. GE added that the only way to reach this efficacy is to decrease lifetime by two thirds if operated at 120 V and even lower if operated at 130 V, making it impractical to sell. GE stated that the proposed regulations raise the efficacy level 5 percent higher and that this is just as impossible as the last standard. (GE, Public Meeting Transcript, No. 49 at pp. 40–42)

CA IOUs disagreed, stating that not setting a standard for 130 V lamps leaves the door open to potential loopholes. CA IOUs cited the example that DOE exempted certain BR and ER lamps and these lamps have grown in market share. Therefore, the CA IOUs stated that products that are not on the market now but might be in the future should be regulated. (CA IOUs, Public Meeting Transcript, No. 49 at p. 39)

DOE is aware that at the time of this final rule there are no 130 V IRLs covered by this rulemaking on the market. However, DOE did not find any evidence that permanently precludes these lamps from becoming commercially available. DOE's research also does not indicate that the lamps are not being manufactured solely due to technological barriers. DOE remains concerned that if 130 V lamps do become available and standards for 120 V lamps are raised and not for the 130 V lamps, there may be a potential migration to the 130 V lamps that would result in increased energy consumption. See section VI.C.2 and VI.D.3.f for further discussion. Therefore, when considering higher efficacy standards for the less than 125 V product class in TSL 1, DOE also considered higher efficacy standards for the greater than or equal to 125 V product class.

DOE also received overall comments on the merit of proposing TSL 1, which represented max tech (EL 1) for IRLs. CA IOUs and NEEP commented that they support the DOE's proposal to increase the stringency of IRL standards, but stated that the standards proposed in the NOPR could be higher. (NEEP, No. 57 at p. 3; CA IOU, No. 56 at p. 4) NEEP stated that additional ELs should be established that represent the maximum technologically feasible level and typically evaluates the maximum commercially available level. NEEP noted that there were products in DOE's certification database with higher efficacies than the proposed standard, which should have been considered in the analysis. (NEEP, No. 57 at p. 3) CA IOUs agreed with DOE's proposal to adopt a standard that can be met with HIR design strategy. CA IOUs continued that they have incentive programs that promote a shift towards higher efficiency technology, such as LEDs, but are not able to promote and incentivize the highest efficacy incandescent products. CA IOUs mentioned that DOE would be the biggest driver in promoting this shift to high-efficacy IRLs, and noted that the HIR technology is a proven and cost-effective design. (CA IOUs, No. 56 at p. 4) ASAP stated that the proposed IRL standard will help ensure that buyers have a choice of efficient options in that market place, including LEDs or very efficacious incandescent lamps. (ASAP, Public Meeting Transcript, No. 49 at pp. 15–16)

NEMA, however, disagreed, stating that the limited benefits to the nation from amended standards for IRLs do not justify the burden on the manufacturers and consumers of IRLs. With regards to negative impacts on manufacturers, NEMA presented a graph that plotted the percentage INPV and the estimated energy savings from DOE's appliance efficiency rulemakings since 2008. NEMA also calculated and plotted the midpoint average percentage INPV as −10.95 percent and average projected energy savings at 2.156 of these rulemakings. NEMA noted on this graph that with the exception of the proposed GSFL standards, all lighting rulemakings have resulted in INPV more negative than the midpoint INPV, and the proposed IRL standards are the second most severe in negative impacts to manufacturers. Further, on NEMA's graph, the proposed IRLs standards result in the lowest energy savings compared to the average projected energy savings of 2.156 quads. NEMA stated that on this basis alone, the proposed IRL standards deviate from the norms and should not be deemed economically justified. NEMA also provided a summary of the negative INPV from various product rulemakings that result in a cumulative regulatory burden on IRL manufacturers. NEMA noted that the imposition of the burden of the proposed IRL standards in addition to this cumulative regulatory burden called for ''alternatives to direct regulation'' per Executive Order 12866, which in this case would be to not amend the existing IRL standards as only one TSL is proposed. NEMA also

stated that the IRL standards proposed in the NOPR would result in an increase in prices that would drive consumers to alternate technologies and manufacturers to exit the IRL market and result in the loss of all or most domestic employment in IRL manufacturing. (NEMA, No. 54 at pp. 2–4)

With regards to impact on consumers, NEMA emphasized that the proposed IRL standards would require IRL consumers to accept a 30–50 percent increase in price. Further, NEMA predicted that due to initial costs, consumers would choose to purchase the less efficacious, unregulated higher wattage IRLs. (NEMA, No. 54 at pp. 2, 10) NEMA suggested that regulations allowing lower priced lamps at 60 W or below as substitutes for 90 W IRLs would move consumers to more energy efficient options. In contrast, the proposed IRL standards would limit consumer options to higher-end commercial products that utilize HIR. NEMA explained that halogen PAR lamps would not meet the proposed standards unless life was reduced by at least 20 percent, which would be a loss to consumer utility. Therefore, NEMA concluded that for these reasons the IRL standards proposed in the NOPR would increase rather than decrease national energy use. (NEMA, No. 54 at pp. 2, 10) GE noted the positive LCC saving results for IRLs were likely based mainly on commercial customers that use PAR38 lamps and would be very different for the residential consumers. GE questioned how a standard that has no economic benefits could be adopted. (GE, Public Meeting Transcript, No. 49 at p. 152)

DOE is aware that TSL 1 for IRLs resulted in negative impacts on industry and would increase end-user prices. Regarding the LCC assessment, DOE analyzed both the IRL commercial and residential sectors at TSL 1 and found them to be positive for both representative lamp units. As noted previously, in addition to the impact on manufacturers and consumers, DOE weighed other factors when determining whether or not TSL 1 was economically justified. In the NOPR, DOE found that at TSL 1 for IRLs, the benefits of energy savings, positive NPV of consumer benefits, positive impacts on consumers (as indicated by positive average LCC savings and the large percentage of consumers who would experience LCC benefits), emission reductions and the estimated monetary value of the emissions reductions would outweigh the potential reduction in industry value. In this final rule analysis, after reevaluating the factors considered in weighing the benefits and burdens of a potential standard, DOE is not amending standards for IRLs in this rule. See section VII.C.3 for a discussion on the benefits and burdens of IRL standards.

VII. Analytical Results

A. Trial Standard Levels

For the final rule, DOE develops TSLs for consideration. The GSFL and IRL TSLs are formed by grouping different efficacy levels, which are potential standard levels for each product class. TSL 5 is composed of the max tech efficacy levels. TSL 4 is composed of the combination of efficacy levels that yield the maximum NPV. TSL 3 is composed of efficacy levels that yield the maximum energy savings without using any of the EL 2 levels. For both TSL 4 and TSL 3 efficacy level combinations, to ensure that max NES and NPV were based on consumer options to save energy for each lamp type, DOE did not consider an efficacy level for a product class that did not result in energy savings from options within the product class. TSL 2 is composed of the efficacy levels that would bring all product classes to approximately the same level of rare earth phosphor. TSL 1 is composed of the levels that represent the least efficacious commercially available lamps. For IRLs, DOE considered one TSL, because only one efficacy level was analyzed (Table VII.2).

DOE used data on the representative product classes from the engineering and pricing analyses described in section VI.D.2.b for GSFLs and section VI.D.3.a for IRLs to evaluate the benefits and burdens of each of the GSFL and IRL TSLs. DOE analyzed the benefits and burdens by conducting the analyses described in section VII.C for each TSL. Table VII.1 presents the GSFL TSLs analyzed and the corresponding efficacy level for each GSFL representative product class. Table VII.2 presents the IRL TSL analyzed and the corresponding efficacy level for the representative IRL product class.

TABLE VII.1—COMPOSITION OF TSLS FOR GSFLS BY EFFICACY LEVEL

Representative product class	TSL 1 Current market min	TSL 2 Same phosphor level	TSL 3 Best non-EL 2	TSL 4 Max NPV	TSL 5 Max tech
1. 4-foot medium bipin, CCT ≤4,500 K	0	0	1	2	2
2. 8-foot single pin slimline, CCT ≤4,500 K	0	1	0	0	2
3. 8-foot RDC high output, CCT ≤4,500 K	1	2	0	0	2
4. 4-foot T5, Mini bipin standard output, CCT ≤4,500 K	1	1	1	2	2
5. 4-foot T5, Mini bipin high output, CCT ≤4,500 K	1	1	1	1	1

TABLE VII.2—COMPOSITION OF TSLS FOR IRLS BY EFFICACY LEVEL

Representative product class	TSL 1
Standard spectrum; >2.5 inch diameter; <125 V	1

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on GSFL and IRL consumers by looking at the effects standards would have on the LCC and PBP. DOE also examined the impacts of potential standards on consumer subgroups. These analyses are discussed in the following subsections.

a. Life-Cycle Cost and Payback Period

Consumers affected by new or amended standards usually experience higher purchase prices and lower operating costs. Generally, these impacts on individual consumers are best captured by changes in LCCs and by the payback period. DOE's LCC and PBP analyses provide key outputs for each TSL, which are reported by product class in Table VII.3 through Table VII.15. DOE designed the LCC analysis around lamp purchasing events and calculated the LCC savings relative

to the baseline for each lamp replacement event separately in each lamp product class. Each table includes the average total LCC and the average LCC savings, as well as the fraction of product consumers for which the LCC will either decrease (net benefit), or increase (net cost) relative to the base-case forecast. When an EL results in ''positive LCC savings,'' the LCC of the lamp or lamp-and-ballast system is less than the LCC of the baseline lamp or lamp-and-ballast system, and the consumer economically benefits. When an EL results in ''negative LCC savings,'' the LCC of the lamp or lamp-and-ballast system is higher than the LCC of the baseline lamp or lamp-and-ballast system, and the consumer is adversely affected economically. The last outputs in the tables are the mean PBPs for the consumer that is purchasing a design compliant with the TSL. Entries of ''NER'' indicate standard levels that do not reduce operating costs, which prevents the consumer from recovering the increased purchase cost. The PBP cannot be calculated in those instances because the denominator of the PBP equation is 0. Because LCC savings and PBP are not relevant at the baseline level, results are ''N/A'' (not applicable) for the baselines. Chapter 8 of the final rule TSD provides a detailed description of the LCC and PBP analysis and the results. Appendix 8B of the NOPR TSD presents Monte Carlo simulation results performed by DOE as part of the LCC analysis and the appendix also presents sensitivity results, such as LCC savings under the *AEO 2014* high-economic-growth and low-economic-growth cases.

The results for each TSL are relative to the energy-use distribution in the base case (no amended standards), based on energy consumption under conditions of actual product use. The rebuttable-presumption PBP is based on test values under conditions prescribed by the DOE test procedure, as required by EPCA. (42 U.S.C. 6295(o)(2)(B)(iii))

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Table VII.3 through Table VII.11 present the results for each of the five GSFL representative product classes that DOE analyzed. Specifically, these were the 4-foot MBP product class, 4-foot MiniBP SO product class, 4-foot MiniBP HO product class, 8-foot SP slimline product class, and 8-foot RDC HO product class. For GSFLs, results for the most common sector for each product class are presented. Chapter 8 of the final rule TSD provides the LCC and PBP results for each product class in all relevant sectors.

TABLE VII.3—LCC AND PBP RESULTS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy *lm/W*	Design option [82]	Life-cycle cost			Life-cycle cost savings			Mean payback period *years*
					Installed cost *2013$*	Dis-counted operating cost *2013$*	LCC *2013$*	LLC savings *2013$*	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst ...	17.38	126.22	143.80	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	90.0	32.5 W T8 & 0.88 BF Inst ...	34.60	126.22	147.97	−4.17	100.0	0	NER
		EL 2	93.0	26.6 W T8 & 0.88 BF Inst ...	30.12	105.71	136.03	7.77	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.88 BF Inst ...	27.03	126.22	153.45	−9.65	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.88 BF Inst ...	24.25	113.41	137.86	5.94	0.0	100.0	2.6
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst ...	60.77	126.00	167.94	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst ...	77.99	112.69	158.80	9.14	0.0	100.0	0.4
		EL 2	93.0	26.6 W T8 & 0.88 BF Inst ...	73.51	105.51	160.20	7.74	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.77 BF Inst ...	70.42	109.77	161.36	6.58	0.0	100.0	2.9
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	67.64	108.63	157.45	10.49	0.0	100.0	1.9
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst ...	63.61	126.00	169.54	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst ...	80.84	112.69	160.40	9.14	0.0	100.0	0.4
		EL 2	93.0	26.6 W T8 & 0.88 BF Inst ...	76.35	105.51	161.79	7.74	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.77 BF Inst ...	73.26	109.77	162.96	6.58	0.0	100.0	2.9
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	70.49	108.63	159.04	10.49	0.0	100.0	1.9

[82] The lifetimes of the representative lamps units range from 4.8 to 5.5 years.

TABLE VII.4—LCC AND PBP RESULTS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy *lm/W*	Design option [83]	Life-cycle cost			Life-cycle cost savings			Mean payback period *years*
					Installed cost *2013$*	Dis-counted operating cost *2013$*	LCC *2013$*	LLC savings *2013$*	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst ...	17.38	200.67	218.22	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	90.0	32.5 W T8 & 0.88 BF Inst ...	33.47	200.67	225.18	−6.96	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.88 BF Inst ...	30.12	168.52	198.82	19.41	0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.88 BF Inst ...	27.03	200.67	227.87	−9.65	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.88 BF Inst ...	24.25	180.59	205.02	13.20	0.0	100.0	2.6
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst ...	61.98	200.67	255.15	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.88 BF Inst ...	78.07	200.67	262.11	−6.96	100.0	0.0	NER
		EL 1	90.0	32.5 W T8 & 0.72 BF Inst ...	78.07	168.05	229.49	25.66	0.0	100.0	0.3
		EL 2	93.0	26.6 W T8 & 0.88 BF Inst ...	74.72	168.52	235.74	19.41	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.88 BF Inst ...	71.63	200.67	264.80	−9.65	100.0	0.0	NER
		EL 2	95.4	32.5 W T8 & 0.72 BF Inst ...	71.63	168.05	232.18	22.97	0.0	100.0	2.3
		EL 2	96.0	28.4 W T8 & 0.72 BF Inst ...	68.85	180.59	241.95	13.20	0.0	100.0	2.6
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog	64.82	200.67	257.51	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog	80.91	200.67	264.46	−6.96	100.0	0.0	NER
		EL 1	90.0	32.5 W T8 & 0.72 BF Prog	80.91	168.05	231.84	25.66	0.0	100.0	0.3
		EL 2	93.0	26.6 W T8 & 0.72 BF Prog	77.56	168.52	238.10	19.41	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.88 BF Prog	74.47	200.67	267.15	−9.65	100.0	0.0	NER
		EL 2	95.4	32.5 W T8 & 0.72 BF Prog	74.47	168.05	234.53	22.97	0.0	100.0	2.3
		EL 2	96.0	28.4 W T8 & 0.88 BF Prog	71.70	180.59	244.30	13.20	0.0	100.0	2.6

[83] The lifetimes of the representative lamps units range from 6.9 to 9.2 years.

TABLE VII.5—LCC AND PBP RESULTS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy *lm/W*	Design option [84]	Life-cycle cost			Life-cycle cost savings			Mean payback period *years*
					Installed cost *2013$*	Dis-counted operating cost *2013$*	LCC *2013$*	LLC savings *2013$*	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	28.26	248.52	277.17	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	90.0	32.5 W T8 & 0.87 BF Inst ...	57.07	248.52	284.37	−7.21	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	53.75	208.09	262.22	14.94	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.87 BF Inst ...	47.56	248.52	296.46	−19.30	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	42.01	265.66	265.66	11.51	0.0	100.0	2.7
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	87.41	242.00	303.87	N/A	N/A	N/A	N/A
	Lamp & Ballast Re-placement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst ...	116.22	220.90	289.98	13.89	0.0	100.0	0.5
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	112.90	202.40	289.76	14.12	0.0	100.0	3.2
		EL 2	95.4	32.5 W T8 & 0.74 BF Inst ...	106.71	213.66	294.83	9.05	0.4	99.6	3.4
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	101.16	217.26	292.88	10.99	0.0	100.0	2.7
Event III: New Con-struction and Ren-ovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	90.25	242.00	305.47	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst ...	119.06	220.90	305.47	13.89	0.0	100.0	0.5
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	115.74	202.40	291.58 291.35	14.12	0.0	100.0	3.2
		EL 2	95.4	32.5 W T8 & 0.74 BF Inst ...	109.55	213.66	296.42	9.05	0.4	99.6	3.4
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	104.00	217.26	294.47	10.99	0.0	100.0	2.7

[84] The lifetimes of the representative lamps units range from 4.8 to 5.5 years.

TABLE VII.6—LCC AND PBP RESULTS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy *lm/W*	Design option [85]	Life-cycle cost			Life-cycle cost savings			Mean payback period *years*
					Installed cost *2013$*	Dis-counted operating cost *2013$*	LCC *2013$*	LLC savings *2013$*	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog	28.26	396.53	425.14	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	90.0	32.5 W T8 & 0.89 BF Prog	55.17	396.53	436.96	−11.82	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.89 BF Prog	53.75	332.51	386.60	38.54	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.89 BF Prog	47.56	396.53	444.44	−19.30	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.89 BF Prog	42.01	356.54	398.90	26.24	0.0	100.0	2.7
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog	89.27	396.53	475.65	N/A	N/A	N/A	N/A
	Lamp & Ballast Re-placement.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog	116.18	378.87	469.82	5.83	0.3	99.7	1.0
		EL 2	93.0	32.5 W T8 & 0.89 BF Prog	114.75	332.51	437.11	38.54	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.87 BF Prog	108.57	378.87	477.30	−1.64	74.2	25.8	8.4
		EL 2	96.0	28.4 W T8 & 0.87 BF Prog	103.02	340.36	433.24	42.42	0.0	100.0	1.9
Event III: New Con-struction and Ren-ovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog	92.11	396.53	478.01	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog	119.02	378.87	472.17	5.83	0.3	99.7	1.0
		EL 2	93.0	32.5 W T8 & 0.89 BF Prog	117.59	332.51	439.47	38.54	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.87 BF Prog	111.41	378.87	479.65	−1.64	74.2	25.8	8.4
		EL 2	96.0	28.4 W T8 & 0.87 BF Prog	105.86	340.36	435.59	42.42	0.0	100.0	1.9

[85] The lifetimes of the representative lamps units range from 6.9 to 9.2 years.

TABLE VII.7—LCC AND PBP RESULTS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy *lm/W*	Design option [86]	Life-cycle cost			Life-cycle cost savings			Mean payback period *years*
					Installed cost *2013$*	Dis-counted operating cost *2013$*	LCC *2013$*	LCC savings *2013$*	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	10.59	49.49	60.09	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	90.0	32.5 W T8 & 0.87 BF Inst ...	11.70	49.49	61.19	−1.10	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	23.33	41.51	64.84	−4.75	94.0	6.0	16.9
		EL 2	95.4	32.5 W T8 & 0.87 BF Inst ...	20.24	49.49	69.74	−9.65	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	17.47	44.51	61.97	−1.88	86.3	13.7	14.6
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	53.44	49.49	102.93	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.88 BF Inst ...	54.54	46.98	101.53	1.41	0.8	99.2	4.7
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	66.18	41.51	107.69	−4.75	94.0	6.0	16.9
		EL 2	95.4	32.5 W T8 & 0.83 BF Inst ...	63.09	46.98	110.07	−7.14	100.0	0.0	40.8
		EL 2	96.0	28.4 W T8 & 0.83 BF Inst ...	60.31	42.24	102.56	0.38	43.8	56.2	10.1
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	56.28	49.49	105.77	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.838 BF Inst	57.38	46.98	104.37	1.41	0.8	99.2	4.7
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	69.02	41.51	110.53	−4.75	94.0	6.0	16.9
		EL 2	95.4	32.5 W T8 & 0.83 BF Inst ...	65.93	46.98	112.91	−7.14	100.0	0.0	40.8
		EL 2	96.0	28.4 W T8 & 0.83 BF Inst ...	63.15	42.24	105.40	0.38	43.8	56.2	10.1

[86] The lifetimes of the representative lamps units are 15 years.

TABLE VII.8—LCC AND PBP RESULTS FOR A TWO-LAMP 4-FOOT 54 W T5 MINIATURE BIPIN HIGH OUTPUT SYSTEM OPERATING IN THE INDUSTRIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option [87]	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog	18.79	198.89	217.86	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	92.9	53.8 W T5 & 1 BF Prog	26.89	198.89	225.96	−8.11	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog	32.88	181.63	207.42	10.44	0.0	100.0	3.6
		EL 1	102.1	47 W T5 & 1 BF Prog	35.82	174.43	205.82	12.04	0.0	100.0	3.0
Event II: Ballast Failure	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog	73.59	198.89	250.82	N/A	N/A	N/A	N/A
	Lamp & Ballast ..... Replacement.	EL 1	92.9	53.8 W T5 & 1 BF Prog	81.69	198.89	258.93	−8.11	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog	87.68	181.63	240.38	10.44	0.0	100.0	3.6
		EL 1	102.1	47 W T5 & 1 BF Prog	90.62	174.43	238.78	12.04	0.0	100.0	3.0
Event III: New Construction and Renovation.	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog	76.43	198.89	252.53	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	92.9	53.8 W T5 & 1 BF Prog	84.54	198.89	260.63	−8.11	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog	90.52	181.63	242.09	10.44	0.0	100.0	3.6
		EL 1	102.1	47 W T5 & 1 BF Prog	93.46	174.43	240.49	12.04	0.0	100.0	3.0

[87] The lifetimes of the representative lamps units range from 5.1 to 7.2 years.

TABLE VII.9—LCC AND PBP RESULTS FOR A TWO-LAMP 4-FOOT 28 W T5 MINIATURE BIPIN STANDARD OUTPUT SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option [88]	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog	15.48	168.05	183.71	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	104.3	27.8 W T5 & 1 BF Prog	19.38	168.05	187.62	−3.91	100.0	0.0	NER
		EL 2	109.7	27.8 W T5 & 1 BF Prog	21.76	168.05	190.00	−6.29	100.0	0.0	NER
		EL 2	111.5	26 W T5 & 1 BF Prog	24.94	157.48	182.61	1.10	35.6	64.4	5.4
		EL 2	116.0	25 W T5 & 1 BF Prog	27.72	151.60	176.35	7.36	0.0	100.0	4.5
Event II: Ballast Failure	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog	69.04	168.05	219.39	N/A	N/A	N/A	N/A
	Lamp & Ballast ..... Replacement.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog	72.94	147.48	202.73	16.66	0.0	100.0	1.1
		EL 2	109.7	27.8 W T5 & 0.85 BF Prog	75.32	147.48	205.11	14.28	0.0	100.0	1.8
		EL 2	111.5	26 W T5 & 0.85 BF Prog	78.50	138.30	199.12	20.28	0.0	100.0	1.9
		EL 2	116.0	25 W T5 & 0.85 BF Prog	81.28	133.20	193.64	25.76	0.0	100.0	2.1
Event III: New Construction and Renovation.	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog	71.88	168.05	221.29	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog	75.79	147.48	204.63	16.66	0.0	100.0	1.1
		EL 2	109.7	27.8 W T5 & 0.85 BF Prog	78.17	147.48	207.01	14.28	0.0	100.0	1.8
		EL 2	111.5	26 W T5 & 0.85 BF Prog	81.34	138.30	201.01	20.28	0.0	100.0	1.9
		EL 2	116.0	25 W T5 & 0.85 BF Prog	84.12	133.20	195.53	25.76	0.0	100.0	2.1

[88] The lifetimes of the representative lamps units range from 6.9 to 8.1 years.

TABLE VII.10—LCC AND PBP RESULTS FOR A TWO-LAMP 8-FOOT 59 W T8 SINGLE PIN SLIMLINE SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option [89]	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst ...	27.02	235.88	263.29	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	98.2	60.1 W T8 & 0.87 BF Inst ...	29.72	235.88	266.00	−2.70	100.0	0.0	NER
		EL 2	99.0	60.1 W T8 & 0.87 BF Inst ...	34.89	235.88	271.17	−7.88	100.0	0.0	NER
		EL 2	105.6	54 W T8 & 0.87 BF Inst	43.98	223.67	268.05	−4.75	93.5	6.5	6.6
		EL 2	108.0	50 W T8 & 0.87 BF Inst	51.41	207.38	259.19	4.10	18.4	81.6	4.1
Event II: Ballast Failure	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst ...	103.85	232.93	301.36	N/A	N/A	N/A	N/A
	Lamp & Ballast ..... Replacement.	EL 1	98.2	60.1 W T8 & 0.77 BF Inst ...	106.55	207.99	279.13	22.23	0.0	100.0	0.5
		EL 2	99.0	60.1 W T8 & 0.77 BF Inst ...	111.72	207.99	284.31	17.06	0.0	100.0	1.5
		EL 2	105.6	54 W T8 & 0.77 BF Inst	120.81	197.22	282.62	18.75	0.0	100.0	2.3
		EL 2	108.0	50 W T8 & 0.87 BF Inst	128.24	204.71	297.54	3.83	21.5	78.5	4.1
Event III: New ..... Construction and Renovation	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst ...	106.69	232.93	302.88	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	98.2	60.1 W T8 & 0.77 BF Inst ...	109.39	207.99	280.65	22.23	0.0	100.0	0.5
		EL 2	99.0	60.1 W T8 & 0.77 BF Inst ...	114.57	207.99	285.82	17.06	0.0	100.0	1.5
		EL 2	105.6	54 W T8 & 0.77 BF Inst	123.65	197.22	284.13	18.75	0.0	100.0	2.3
		EL 2	108.0	50 W T8 & 0.87 BF Inst	131.08	204.71	299.06	3.83	21.5	78.5	4.1

[89] The lifetimes of the representative lamps units are 5.4 years.

TABLE VII.11—LCC AND PBP RESULTS FOR A TWO-LAMP 8-FOOT 86 W T8 RECESSED DOUBLE CONTACT HO SYSTEM OPERATING IN THE INDUSTRIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option [90]	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Discounted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure	Baseline	Baseline	92.0	84 W T8 & 0.95 BF Prog	24.73	225.36	250.47	N/A	N/A	N/A	N/A
	Lamp Replacement	EL 1	95.2	84 W T8 & 0.95 BF Prog	34.39	225.36	260.13	−9.67	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.95 BF Prog	41.67	225.36	267.42	−16.95	100.0	0.0	NER
Event II: Ballast Failure	Baseline	Baseline	92.0	84 W T8 & 0.95 BF Prog	103.98	225.36	287.49	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	95.2	84 W T8 & 0.95 BF Prog	113.65	225.36	297.16	−9.67	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.95 BF Prog	120.93	225.36	304.44	−16.95	100.0	0.0	NER
Event III: New Construction and Renovation.	Baseline	Baseline	92.0	84 W T8 & 0.95 BF Prog	106.82	225.36	288.82	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	95.2	84 W T8 & 0.95 BF Prog	116.49	225.36	298.49	−9.67	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.95 BF Prog	123.77	225.36	305.77	−16.95	100.0	0.0	NER

[90] The lifetimes of the representative lamp units are 3.6 years.

Incandescent Reflector Lamps

Table VII.12 through Table VII.15 present the commercial and residential sector LCC results for the IRL representative product class, the standard spectrum IRLs with diameters greater than 2.5 inches, input voltages less than 125 V.

TABLE VII.12—LCC AND PBP RESULTS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure;	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	10.67	9.88	20.54	N/A	N/A	N/A	N/A
or Event III: New Construction and Renovation	Lamp Replacement or New Lamp Purchase.	EL 1	17.8	55W, 2500hrs, HIR	13.25	9.05	17.00	3.54	0.0	100.0	3.0

TABLE VII.13—LCC AND PBP RESULTS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure;	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	9.52	10.92	20.45	N/A	N/A	N/A	N/A
or Event III: New Construction and Renovation	Lamp Replacement or New Lamp Purchase.	EL 1	17.8	55W, 2500hrs, HIR	12.10	10.01	17.74	2.71	0.0	100.0	5.2

TABLE VII.14—LCC AND PBP RESULTS FOR A 55 W PAR38 4,200 HOUR IMPROVED HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure;	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	10.67	9.88	20.54	N/A	N/A	N/A	N/A
or Event III: New Construction and Renovation	Lamp Replacement or New Lamp Purchase.	EL 1	20.4	55W, 4200hrs, Improved HIR.	15.15	9.05	14.46	6.08	0.0	100.0	5.2

TABLE VII.15—LCC AND PBP RESULTS FOR A 55 W PAR38 4,200 HOUR IMPROVED HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	9.52	10.92	20.45	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	20.4	55W, 4200hrs, Improved HIR.	14.00	10.01	15.87	4.58	0.0	100.0	9.0

b. Consumer Subgroup Analysis

Certain consumer subgroups may be disproportionately affected by standards. Using the LCC spreadsheet model, DOE determined the impact of the TSLs on the following consumer subgroups: low-income consumers and institutions that serve low-income populations.

To reflect conditions faced by the identified subgroups, DOE adjusted particular inputs to the LCC model. For low-income consumers, DOE only used RECS data for consumers living below the poverty line. For institutions serving low-income populations, DOE assumed that the majority of these institutions are small nonprofits, and used a higher discount rate of 8.2 percent (versus 3.6 percent for the main commercial sector analysis). DOE found the differences between the LCC and PBP results for the subgroups analyzed and the primary LCC and PBP analysis to be minimal. See chapter 9 of the final rule TSD further details of the consumer subgroup analysis.

General Service Fluorescent Lamps

Table VII.16 through Table VII.24 show the LCC impacts and payback periods for the identified subgroups for GSFLs. Entries of ''NER'' indicate standard levels that do not reduce operating costs.

TABLE VII.16—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Discounted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst	17.38	110.26	127.79	N/A	N/A	N/A	N/A
	Lamp Replacement	EL 1	90.0	32.5 W T8 & 0.88 BF Inst	32.05	110.26	132.38	−4.59	100	0	NER
		EL 2	93.0	26.6 W T8 & 0.88 BF Inst	30.12	92.34	122.61	5.18	1.3	98.7	3.1
		EL 2	95.4	32.5 W T8 & 0.88 BF Inst	27.03	110.26	137.44	−9.65	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.88 BF Inst	24.25	99.07	123.47	4.32	0.0	100.0	2.6
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst	60.77	110.06	156.30	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst	75.44	98.44	149.27	7.03	0.0	100.0	0.4
		EL 2	93.0	26.6 W T8 & 0.88 BF Inst	73.51	92.17	151.15	5.15	1.4	98.6	3.1
		EL 2	95.4	32.5 W T8 & 0.77 BF Inst	70.42	95.89	151.78	4.53	0.3	99.7	2.9
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst	67.64	94.89	148.01	8.30	0.0	100.0	1.9
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst	63.61	110.06	158.18	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst	78.28	98.44	151.15	7.03	0.0	100.0	0.4
		EL 2	93.0	26.6 W T8 & 0.88 BF Inst	76.35	92.17	153.03	5.15	1.4	98.6	3.1
		EL 2	95.4	32.5 W T8 & 0.77 BF Inst	73.26	95.89	153.66	4.53	0.3	99.7	2.9
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst	70.49	94.89	149.89	8.30	0.0	100.0	1.9

TABLE VII.17—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Discounted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog	17.38	163.71	181.21	N/A	N/A	N/A	N/A
	Lamp Replacement	EL 1	90.0	32.5 W T8 & 0.88 BF Prog	30.05	163.71	187.69	−6.48	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.88 BF Prog	30.12	137.48	167.73	13.49	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.88 BF Prog	27.03	163.71	190.86	−9.65	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.88 BF Prog	24.25	147.33	171.71	9.51	0.0	100.0	2.6
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog	61.98	163.71	220.61	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog	74.65	163.71	227.09	−6.48	100.0	0.0	NER
		EL 1	90.0	32.5 W T8 & 0.72 BF Prog	74.65	137.10	200.48	20.13	0.0	100.0	0.3
		EL 2	93.0	26.6 W T8 & 0.88 BF Prog	74.72	137.48	207.12	13.49	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.88 BF Prog	71.63	163.71	230.26	−9.65	100.0	0.0	NER
		EL 2	95.4	32.5 W T8 & 0.72 BF Prog	71.63	137.10	203.65	16.97	0.0	100.0	2.3
		EL 2	96.0	28.4 W T8 & 0.88 BF Prog	68.85	147.33	211.11	9.51	0.0	100.0	2.6
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog	64.82	163.71	223.12	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog	77.49	163.71	229.60	−6.48	100.0	0.0	NER
		EL 1	90.0	32.5 W T8 & 0.72 BF Prog	77.49	137.10	202.99	20.13	0.0	100.0	0.3
		EL 2	93.0	26.6 W T8 & 0.88 BF Prog	77.56	137.48	209.64	13.49	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.88 BF Prog	74.47	163.71	232.77	−9.65	100.0	0.0	NER
		EL 2	95.4	32.5 W T8 & 0.72 BF Prog	74.47	137.10	206.16	16.97	0.0	100.0	2.3
		EL 2	96.0	28.4 W T8 & 0.88 BF Prog	71.70	147.33	213.62	9.51	0.0	100.0	2.6

TABLE VII.18—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	28.26	217.09	245.65	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	90.0	32.5 W T8 & 0.87 BF Inst ...	52.85	217.09	253.57	−7.92	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	53.75	181.77	235.82	9.83	1.9	98.1	3.1
		EL 2	95.4	32.5 W T8 & 0.87 BF Inst ...	47.56	217.09	264.95	−19.30	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	42.01	195.03	237.33	8.31	0.0	100.0	2.7
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	87.41	211.39	279.10	N/A	N/A	N/A	N/A
	Lamp & Ballast ..... Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst ...	112.00	192.97	268.59	10.51	0.0	100.0	0.5
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	112.90	176.80	269.99	9.11	2.2	97.8	3.2
		EL 2	95.4	32.5 W T8 & 0.74 BF Inst ...	106.71	186.63	273.63	5.46	5.1	94.9	3.4
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	101.16	189.78	271.23	7.86	0.0	100.0	2.7
Event III: New ..... Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	90.25	211.39	280.98	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst ...	114.84	192.97	270.47	10.51	0.0	100.0	0.5
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	115.74	176.80	271.87	9.11	2.2	97.8	3.2
		EL 2	95.4	32.5 W T8 & 0.74 BF Inst ...	109.55	186.63	275.51	5.46	5.1	94.9	3.4
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	104.00	189.78	273.11	7.86	0.0	100.0	2.7

TABLE VII.19—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog	28.26	323.51	352.00	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	90.0	32.5 W T8 & 0.89 BF Prog	49.53	323.51	363.05	−11.04	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.89 BF Prog	53.75	271.27	325.26	26.75	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.89 BF Prog	47.56	323.51	371.30	−19.30	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.89 BF Prog	42.01	290.88	333.13	18.88	0.0	100.0	2.7
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog	89.27	323.51	405.90	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement	EL 1	90.0	32.5 W T8 & 0.87 BF Prog	110.54	309.10	402.54	3.36	4.0	96.0	1.0
		EL 2	93.0	26.6 W T8 & 0.89 BF Prog	114.75	271.27	379.15	26.75	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.87 BF Prog	108.57	309.10	410.79	−4.89	88.8	11.2	8.4
		EL 2	96.0	28.4 W T8 & 0.87 BF Prog	103.02	277.68	373.82	32.07	0.0	100.0	1.9
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog	92.11	323.51	408.41	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog	113.38	309.10	405.05	3.36	4.0	96.0	1.0
		EL 2	93.0	26.6 W T8 & 0.89 BF Prog	117.59	271.27	381.66	26.75	0.0	100.0	3.1
		EL 2	95.4	32.5 W T8 & 0.87 BF Prog	111.41	309.10	413.30	−4.89	88.8	11.2	8.4
		EL 2	96.0	28.4 W T8 & 0.87 BF Prog	105.86	277.68	376.33	32.07	0.0	100.0	1.9

TABLE VII.20—LCC AND PBP SUBGROUP RESULTS FOR LOW-INCOME CONSUMERS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	10.60	49.49	60.09	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	90.0	32.5 W T8 & 0.87 BF Inst ...	11.71	49.49	61.20	−1.10	100	0	NER
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	23.36	41.50	64.86	−4.77	93.3	6.7	16.9
		EL 2	95.4	32.5 W T8 & 0.87 BF Inst ...	20.26	49.49	69.75	−9.66	100	0	NER
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst ...	17.48	44.50	61.98	−1.89	86.4	13.6	14.6
Event II: Ballast Failure	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	53.46	49.49	102.94	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.83 BF Inst ...	54.56	46.98	101.54	1.40	0.8	99.2	4.7
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	66.21	41.50	107.71	−4.77	93.3	6.7	16.9
		EL 2	95.4	32.5 W T8 & 0.83 BF Inst ...	63.11	46.98	110.09	−7.15	100.0	0.0	40.8
		EL 2	96.0	28.4 W T8 & 0.83 BF Inst ...	60.34	42.24	102.57	0.37	43.8	56.2	10.1
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst ...	56.30	49.49	105.79	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.83 BF Inst ...	57.40	46.98	104.38	1.40	0.8	99.2	4.7
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst ...	69.05	41.50	110.55	−4.77	93.3	6.7	16.9
		EL 2	95.4	32.5 W T8 & 0.83 BF Inst ...	65.96	46.98	112.93	−7.15	100.0	0.0	40.8
		EL 2	96.0	28.4 W T8 & 0.83 BF Inst ...	63.18	42.24	105.42	0.37	43.8	56.2	10.1

TABLE VII.21—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A TWO-LAMP 4-FOOT 54 W T5 MINIATURE BIPIN HIGH OUTPUT SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog	18.78	239.73	258.66	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	92.9	53.8 W T5 & 1 BF Prog	26.88	239.73	266.76	−8.10	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog	32.86	218.93	245.99	12.67	0.0	100.0	3.0
		EL 1	102.1	47 W T5 & 1 BF Prog	35.81	210.25	242.43	16.23	0.0	100.0	2.6
Event II: Ballast Failure	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog	73.57	239.73	295.57	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	92.9	53.8 W T5 & 1 BF Prog	81.67	239.73	303.67	−8.10	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog	87.65	218.93	282.90	12.67	0.0	100.0	3.0
		EL 1	102.1	47 W T5 & 1 BF Prog	90.60	210.25	279.34	16.23	0.0	100.0	2.6
Event III: New Construction and Renovation.	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog	76.41	239.73	297.48	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	92.9	53.8 W T5 & 1 BF Prog	84.51	239.73	305.59	−8.10	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog	90.49	218.93	284.81	12.67	0.0	100.0	3.0
		EL 1	102.1	47 W T5 & 1 BF Prog	93.44	210.25	281.25	16.23	0.0	100.0	2.6

TABLE VII.22—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A TWO-LAMP 4-FOOT 28 W T5 MINIATURE BIPIN STANDARD OUTPUT SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog	15.48	143.06	158.67	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	104.3	27.8 W T5 & 1 BF Prog	19.38	143.06	162.58	−3.91	100.0	0.0	NER
		EL 2	109.7	27.8 W T5 & 1 BF Prog	21.76	143.06	164.96	−6.29	100.0	0.0	NER
		EL 2	111.5	26 W T5 & 1 BF Prog	24.94	134.06	159.14	−0.47	71.2	28.8	5.4
		EL 2	116.0	25 W T5 & 1 BF Prog	27.72	129.06	154.58	4.09	2.5	97.5	4.5
Event II: Ballast Failure	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog	69.04	143.06	199.02	N/A	N/A	N/A	N/A
	Lamp & Ballast ..... Replacement.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog	72.94	125.55	185.42	13.60	0.0	100.0	1.1
		EL 2	109.7	27.8 W T5 & 0.85 BF Prog	75.32	125.55	187.80	11.22	0.0	100.0	1.8
		EL 2	111.5	26 W T5 & 0.85 BF Prog	78.50	117.74	183.17	15.86	0.0	100.0	1.9
		EL 2	116.0	25 W T5 & 0.85 BF Prog	81.28	113.39	179.27	19.75	0.0	100.0	2.1
Event III: New ..... Construction and Renovation.	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog	71.88	143.06	201.16	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog	75.79	125.55	187.56	13.60	0.0	100.0	1.1
		EL 2	109.7	27.8 W T5 & 0.85 BF Prog	78.17	125.55	189.94	11.22	0.0	100.0	1.8
		EL 2	111.5	26 W T5 & 0.85 BF Prog	81.34	117.74	185.31	15.86	0.0	100.0	1.9
		EL 2	116.0	25 W T5 & 0.85 BF Prog	84.12	113.39	181.41	19.75	0.0	100.0	2.1

TABLE VII.23—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A TWO-LAMP 8-FOOT 59 W T8 SINGLE PIN SLIMLINE SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure .. Lamp Replacement	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst ...	27.02	206.75	234.09	N/A	N/A	N/A	N/A
		EL 1	98.2	60.1 W T8 & 0.87 BF Inst ...	29.72	206.75	236.79	−2.70	100.0	0.0	NER
		EL 2	99.0	60.1 W T8 & 0.87 BF Inst ...	34.89	206.75	241.97	−7.88	100.0	0.0	NER
		EL 2	105.6	54 W T8 & 0.87 BF Inst	43.98	196.05	240.35	−6.26	99.8	0.2	6.6
		EL 2	108.0	50 W T8 & 0.87 BF Inst	51.41	181.77	233.51	0.58	59.9	40.1	4.1
Event II: Ballast Failure	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst ...	103.85	204.17	279.48	N/A	N/A	N/A	N/A
	Lamp & Ballast ..... Replacement.	EL 1	98.2	60.1 W T8 & 0.77 BF Inst ...	106.55	182.31	260.33	19.15	0.0	100.0	0.5
		EL 2	99.0	60.1 W T8 & 0.77 BF Inst ...	111.72	182.31	265.50	13.98	0.0	100.0	1.5
		EL 2	105.6	54 W T8 & 0.77 BF Inst	120.81	172.87	265.14	14.34	0.0	100.0	2.3
		EL 2	108.0	50 W T8 & 0.87 BF Inst	128.24	179.43	279.14	0.34	63.2	36.8	4.1
Event III: New Construction and Renovation.	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst ...	106.69	204.17	281.25	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	98.2	60.1 W T8 & 0.77 BF Inst ...	109.39	182.31	262.10	19.15	0.0	100.0	0.5
		EL 2	99.0	60.1 W T8 & 0.77 BF Inst ...	114.57	182.31	267.27	13.98	0.0	100.0	1.5
		EL 2	105.6	54 W T8 & 0.77 BF Inst	123.65	172.87	266.91	14.34	0.0	100.0	2.3
		EL 2	108.0	50 W T8 & 0.87 BF Inst	131.08	179.43	280.91	0.34	63.2	36.8	4.1

TABLE VII.24—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A TWO-LAMP 8-FOOT 86 W T8 RECESSED DOUBLE CONTACT HO SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure ..	Baseline	Baseline	92.0	84 W T8 & 0.95 BF Prog	24.72	279.36	304.43	N/A	N/A	N/A	N/A
	Lamp Replacement ..	EL 1	95.2	84 W T8 & 0.95 BF Prog	34.38	279.36	314.09	−9.66	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.95 BF Prog	41.66	279.36	321.37	−16.94	100.0	0.0	NER
Event II: Ballast Failure	Baseline	Baseline	92.0	84 W T8 & 0.95 BF Prog	103.96	279.36	345.38	N/A	N/A	N/A	N/A
	Lamp & Ballast	EL 1	95.2	84 W T8 & 0.95 BF Prog	113.62	279.36	355.04	−9.66	100.0	0.0	NER
	Replacement.	EL 2	97.6	84 W T8 & 0.95 BF Prog	120.90	279.36	362.32	−16.94	100.0	0.0	NER
Event III: New	Baseline	Baseline	92.0	84 W T8 & 0.95 BF Prog	106.80	279.36	346.85	N/A	N/A	N/A	N/A
Construction and	New Lamp & Ballast	EL 1	95.2	84 W T8 & 0.95 BF Prog	116.47	279.36	356.51	−9.66	100.0	0.0	NER
Renovation.	Purchase.	EL 2	97.6	84 W T8 & 0.95 BF Prog	123.74	279.36	363.79	−16.94	100.0	0.0	NER

Incandescent Reflector Lamps

Table VII.25 through Table VII.28 show the LCC impacts and payback periods for the identified subgroups for IRLs.

TABLE VII.25—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	10.67	9.46	20.13	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	17.8	55W, 2500hrs, HIR	13.25	8.67	16.62	3.51	0.0	100.0	3.0

TABLE VII.26—LCC AND PBP SUBGROUP RESULTS FOR LOW-INCOME CONSUMERS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LCC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	9.53	10.77	20.31	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	17.8	55W, 2500hrs, HIR	12.11	9.88	17.61	2.70	0.0	100.0	5.3

TABLE VII.27—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW-INCOME POPULATIONS FOR A 55 W PAR38 4,200 HOUR IMPROVED HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	10.67	9.46	20.13	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	20.4	55W, 4200hrs, Improved HIR.	15.15	8.67	14.08	6.05	0.0	100.0	5.2

TABLE VII.28—LCC AND PBP SUBGROUP RESULTS FOR LOW-INCOME CONSUMERS FOR A 55 W PAR38 4,200 HOUR IMPROVED HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2013$	Dis-counted operating cost 2013$	LCC 2013$	LLC savings 2013$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	9.53	10.77	20.31	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	20.4	55W, 4200hrs, Improved HIR.	14.01	9.88	15.74	4.57	0.0	100.0	9.2

c. Rebuttable-Presumption Payback

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. DOE's LCC and PBP analyses generate values that calculate the payback period for consumers of potential energy conservation standards, which include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. However, DOE routinely conducts a full economic analysis that considers the full range of impacts—including those on 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 to evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification).

Table VII.29 shows the GSFL payback periods that are less than 3 years for the most common sector for each product class. There are no IRL payback periods less than 3 years.

TABLE VII.29—GSFL EFFICACY LEVELS WITH REBUTTABLE PAYBACK PERIOD LESS THAN THREE YEARS

Lamp description	Sector	Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Mean payback period years
2-Lamp 4-foot Medium Bipin Instant Start.	Commercial	Event I: Lamp Failure ...	Lamp Replacement	EL 2	96.0	28.4 W T8 & 0.88 BF Inst.	2.6
		Event II: Ballast Failure	Lamp & Ballast	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	0.4
			Replacement	EL 2	95.4	32.5 W T8 & 0.77 BF Inst.	2.9
				EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	1.9
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	0.4
				EL 2	95.4	32.5 W T8 & 0.77 BF Inst.	2.9
				EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	1.9
2-Lamp 4-foot Medium Bipin Programmed Start.	Commercial	Event I: Lamp Failure ...	Lamp Replacement	EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	2.6
		Event II: Ballast Failure	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.72 BF Prog.	0.3
				EL 2	95.4	32.5 W T8 & 0.72 BF Prog.	2.3
				EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	2.6
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.72 BF Prog.	0.3
				EL 2	95.4	32.5 W T8 & 0.72 BF Prog.	2.3
				EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	2.6
4-Lamp 4-foot Medium Bipin Instant Start.	Commercial	Event I: Lamp Failure ...	Lamp Replacement	EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	2.7
		Event II: Ballast Failure	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	0.5
				EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	2.7
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	0.5
				EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	2.7
4-Lamp 4-foot Medium Bipin Programmed Start.	Commercial	Event I: Lamp Failure ...	Lamp Replacement	EL 2	96.0	28.4 W T8 & 0.89 BF Prog.	2.7
		Event II: Ballast Failure	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog.	1.0
				EL 2	96.0	28.4 W T8 & 0.87 BF Prog.	1.9
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog.	1.0
				EL 2	96.0	28.4 W T8 & 0.87 BF Prog.	1.9
T5 Miniature Bipin Standard Output	Commercial	Event II: Ballast Failure	Lamp & Ballast Replacement.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog.	1.1
				EL 2	109.7	27.8 W T5 & 0.85 BF Prog.	1.8
				EL 2	111.5	26 W T5 & 0.85 BF Prog.	1.9
				EL 2	116.0	25 W T5 & 0.85 BF Prog.	2.1
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog.	1.1

TABLE VII.29—GSFL EFFICACY LEVELS WITH REBUTTABLE PAYBACK PERIOD LESS THAN THREE YEARS—Continued

Lamp description	Sector	Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Mean payback period years
				EL 2	109.7	27.8 W T5 & 0.85 BF Prog.	1.8
				EL 2	111.5	26 W T5 & 0.85 BF Prog.	1.9
				EL 2	116.0	25 W T5 & 0.85 BF Prog.	2.1
T8 Single Pin Slimline	Commercial	Event II: Ballast Failure	Lamp & Ballast Replacement.	EL 1	98.2	60.1 W T8 & 0.77 BF Prog.	0.5
				EL 2	99.0	60.1 W T8 & 0.77 BF Prog.	1.5
				EL 2	105.6	54 W T8 & 0.77 BF Prog.	2.3
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	98.2	60.1 W T8 & 0.77 BF Prog.	0.5
				EL 2	99.0	60.1 W T8 & 0.77 BF Prog.	1.5
				EL 2	105.6	54 W T8 & 0.77 BF Prog.	2.3

2. Economic Impacts on Manufacturers

DOE performed MIAs to estimate the impact of amended energy conservation standards on manufacturers of GSFLs and IRLs. The following section describes the expected impacts on GSFL and IRL manufacturers at each TSL. Chapter 13 of the final rule TSD explains the MIA in further detail.

a. Industry Cash-Flow Analysis Results

The tables in this section depict the financial impacts (represented by changes in INPV) of potential amended energy standards on GSFL and IRL manufacturers, as well as the conversion costs that DOE estimates GSFL and IRL manufacturers would incur at each TSL. DOE separately breaks out the impacts on GSFL and IRL manufacturers. To evaluate the range of cash-flow impacts on the GSFL and IRL industries, DOE modeled three markup scenarios for GSFLs and two markup scenarios for IRLs that correspond to the range of anticipated market responses to potential amended standards. Each scenario results in a unique set of cash flows and corresponding industry values at each TSL.

In the following discussion, the INPV results refer to the difference in industry value between the base case and the standards case that result from the sum of discounted cash flows from the base year (2015) through the end of the analysis period. The results also discuss the difference in cash flows between the base case and the standards case in the year before the compliance date for potential amended energy conservation standards. This figure represents the size of the required conversion costs relative to the cash flow generated by the GSFL and IRL industries in the absence of potential amended energy conservation standards.

Cash-Flow Analysis Results by TSL for General Service Fluorescent Lamps

To assess the upper (less severe) bound of the range of potential impacts on GSFL manufacturers, DOE modeled a flat, or preservation of gross margin, markup scenario. This scenario assumes that in the standards case, manufacturers would be able to pass along all the higher production costs required for more efficacious products to their consumers. Specifically, the industry would be able to maintain its average base-case gross margin (as a percentage of revenue) despite the higher product costs in the standards case. In general, the larger the product price increases, the less likely manufacturers are to achieve the cash flow from operations calculated in this scenario because it is less likely that manufacturers would be able to fully mark up these larger cost increases.

To assess the lower (more severe) bound of the range of potential impacts on the GSFL manufacturers, DOE modeled a two-tier markup scenario. The two-tiered markup scenario assumes manufacturers offer two different tiers of markups, one for lower efficacy levels and one for higher efficacy levels. This scenario models a situation where a reduction in premium markups reduces the profitability of higher efficacy products. During manufacturer interviews, manufacturers provided information on the range of typical efficacy levels in these two tiers and the change in profitability at each level. DOE used this information to estimate markups for GSFLs under a two-tier pricing strategy. In the standards case, DOE modeled the situation in which GSFL standards result in less product differentiation, compression of the higher markup tier, and an overall reduction in profitability.

In addition to an upper and lower bound markup scenario, DOE also modeled the preservation of operating profit markup scenario. This scenario models the situation where manufacturers earn the same nominal operating profit in the standards case as they would earn in the base case, despite the higher production costs resulting from standards. While this scenario does not represent an upper or lower bound for this analysis, it displays the INPV results if manufacturers are able to implement a common pricing strategy following abrupt changes to MPCs, as is the case with energy conservation standards.

Table VII.30 through Table VII.32 present the projected results for GSFLs under the flat, preservation of operating profit, and two-tier markup scenarios. DOE examined results for all five product classes (4-foot MBP, 8-foot SP slimline, 8-foot RDC HO, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO) together.

TABLE VII.30—MANUFACTURER IMPACT ANALYSIS FOR GENERAL SERVICE FLUORESCENT LAMPS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	*(2013$ millions)*	1,551.6	1,601.1	1,599.8	1,682.0	1,978.4	1,996.2
Change in INPV	*(2013$ millions)*		49.5	48.2	130.4	426.8	444.6
	(%)		3.2	3.1	8.4	27.5	28.7
Product Conversion Costs	*(2013$ millions)*		0.9	2.0	5.1	7.8	9.2
Capital Conversion Costs	*(2013$ millions)*		1.0	11.2	2.0	18.8	29.9
Total Conversion Costs	*(2013$ millions)*		1.9	13.2	7.2	26.6	39.1

TABLE VII.31—MANUFACTURER IMPACT ANALYSIS FOR GENERAL SERVICE FLUORESCENT LAMPS—PRESERVATION OF OPERATING PROFIT

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	*(2013$ millions)*	1,551.6	1,551.0	1,542.0	1,542.9	1,525.4	1,516.4
Change in INPV	*(2013$ millions)*		(0.6)	(9.6)	(8.7)	(26.2)	(35.2)
	(%)		0.0	−0.6	−0.6	−1.7	−2.3
Product Conversion Costs	*(2013$ millions)*		0.9	2.0	5.1	7.8	9.2
Capital Conversion Costs	*(2013$ millions)*		1.0	11.2	2.0	18.8	29.9
Total Conversion Costs	*(2013$ millions)*		1.9	13.2	7.2	26.6	39.1

TABLE VII.32—MANUFACTURER IMPACT ANALYSIS FOR GENERAL SERVICE FLUORESCENT LAMPS—TWO TIER MARKUP SCENARIO

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	*(2013$ millions)*	1,551.6	1,508.7	1,495.1	1,477.4	1,221.6	1,183.9
Change in INPV	*(2013$ millions)*		(42.9)	(56.5)	(74.2)	(330.0)	(367.7)
	(%)		−2.8	−3.6	−4.8	−21.3	−23.7
Product Conversion Costs	*(2013$ millions)*		0.9	2.0	5.1	7.8	9.2
Capital Conversion Costs	*(2013$ millions)*		1.0	11.2	2.0	18.8	29.9
Total Conversion Costs	*(2013$ millions)*		1.9	13.2	7.2	26.6	39.1

TSL 1 sets the efficacy level at baseline for two product classes (4-foot MBP and 8-foot SP slimline) and EL 1 for three product classes (8-foot RDC HO, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO). EL 1 for the 4-foot T5 MiniBP HO product class represents max tech. At TSL 1, DOE estimates impacts on INPV range from $49.5 million to −$42.9 million, or a change in INPV of 3.2 percent to −2.8 percent. At TSL 1, industry free cash flow (operating cash flow minus capital expenditures) is estimated to decrease by less than 1 percent to $164.2 million, compared to the base-case value of $164.5 million in 2017, the year leading up to the energy conservation standards.

Percentage impacts on INPV range from slightly positive to slightly negative at TSL 1. DOE does not anticipate that manufacturers would lose a significant portion of their INPV at this TSL. This is because the vast majority of shipments already meets or exceeds the efficacy levels prescribed at TSL 1. DOE projects that in the expected year of compliance (2018), 100 percent of 4-foot MBP and 8-foot SP slimline shipments would meet or exceed the efficacy levels at TSL 1. DOE estimates that these lamps account for 86 percent of GSFL shipments in 2018. Meanwhile, in 2018, 32 percent of 8-foot RDC HO shipments, 46 percent of 4-foot T5 MiniBP SO, and 39 percent of 4-foot T5 MiniBP HO shipments would meet the efficacy levels at TSL 1. Because these products comprise only a small percentage of total GSFL shipments in 2018, a very small percentage of total GSFL shipments would need to be converted at TSL 1 to meet these efficacy standards.

DOE expects conversion costs to be small compared to the industry value because most of the GSFL shipments, on a total volume basis, already meet or exceed the efficacy levels prescribed at this TSL. DOE expects GSFL manufacturers to incur $0.9 million in product conversion costs for lamp redesign and testing. DOE estimates manufacturers will have minimal capital conversion costs associated with TSL 1, as most efficacy gains will be achieved through increasing the amount of REOs used to coat the lamps, not through any major equipment upgrades or capital investments. DOE expects $1.0 million in capital conversion costs for manufacturers to upgrade and recalibrate production line automation.

At TSL 1, under the flat markup scenario, the shipment-weighted average MPC increases by approximately 6 percent relative to the base-case MPC. Manufacturers are able to fully pass on this cost increase to consumers by design in this markup scenario. This slight price increase would mitigate the $1.9 million in conversion costs estimated at TSL 1, resulting in slightly positive INPV impacts at TSL 1 under the flat markup scenario.

Under the preservation of operating profit markup scenario, manufacturers earn the same nominal operating profit as would be earned in the base case, but manufacturers do not earn additional

profit from their investments. The 6 percent MPC increase is slightly outweighed by a lower average markup of 1.51 (compared to the flat markup of 1.52) and $1.9 million in conversion costs, resulting in slightly negative impacts at TSL 1.

Under the two-tier markup scenario, manufacturers lose differentiation in their product offerings and premium markups erode as high-efficacy products become baseline offerings due to standards. The 6 percent MPC increase does not mitigate the lower average markup of 1.50 and $1.9 million in conversion costs, resulting in slightly negative impacts at TSL 1.

TSL 2 sets the efficacy level at baseline for one product class (4-foot MBP), EL 1 for three product classes (8-foot SP slimline, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO), and EL 2 for one product class (8-foot RDC HO). EL 1 for the 4-foot T5 MiniBP HO product class and EL 2 for the 8-foot RDC HO product class represent max tech. At TSL 2, DOE estimates impacts on INPV to range from $48.2 million to −$56.5 million, or a change in INPV of 3.1 percent to −3.6 percent. At this standard level, industry free cash flow is estimated to decrease by approximately 3.4 percent to $159.3 million, compared to the base case value of $164.5 million in 2017.

Percentage impacts on INPV range from slightly positive to slightly negative at TSL 2. DOE does not anticipate that manufacturers would lose a significant portion of their INPV at this TSL because the vast majority of shipments already meet or exceed the efficacy levels prescribed at TSL 2. DOE projects that in 2018, 100 percent of 4-foot MBP shipments would meet or exceed the efficacy levels at TSL 2. DOE estimates that shipments of this product classes will comprise 83 percent of GSFL shipments in 2018. Meanwhile, in 2018, 60 percent of 8-foot SP slimline lamps shipments, 10 percent of 8-foot RDC HO shipments, 46 percent of 4-foot T5 MiniBP SO, and 39 percent of 4-foot T5 MiniBP HO shipments would meet or exceed the efficacy levels at TSL 2.

DOE expects conversion costs to be small compared to the industry value because most of the GSFL shipments, on a total volume basis, already meet or exceed the efficacy levels analyzed at this TSL. DOE expects that product conversion costs will rise from $0.9 million at TSL 1 to $2.0 million at TSL 2 for lamp redesign and testing. Capital conversion costs will increase from $1.0 million at TSL 1 to $11.2 million at TSL 2. This is driven by the fact that both 8-foot product classes would have to meet higher efficacy levels at this TSL. DOE believes this will result in higher capital conversion costs related to upgrading and recalibrating production line automation.

At TSL 2, under the flat markup scenario, the shipment-weighted-average MPC increases by 7 percent, relative to the base-case MPC. In this scenario, INPV impacts are slightly positive because of manufacturers' ability to pass the higher production costs to consumers outweighs the $13.2 million in conversion costs. Under the preservation of operating profit markup scenario, the 7 percent MPC increase is slightly outweighed by a lower average markup of 1.51 (compared to the flat markup of 1.52) and $13.2 million in conversion costs, resulting in slightly negative impacts at TSL 2. Under the two-tier markup scenario, the 7 percent MPC increase is also slightly outweighed by a lower average markup of 1.50 and $13.2 million in conversion costs, resulting in slightly negative impacts at TSL 2.

TSL 3 sets the efficacy level at baseline for two product classes (8-foot SP slimline and 8-foot RDC HO) and EL 1 for three product classes (4-foot MBP, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO). EL 1 for the 4-foot T5 MiniBP HO product class represents max tech. At TSL 3, DOE estimates impacts on INPV to range from $130.4 million to −$74.2 million, or a change in INPV of 8.4 percent to −4.8 percent. At this standard level, industry free cash flow is estimated to decrease by approximately 1.5 percent to $154.1 million, compared to the base-case value of $164.5 million in 2017.

While more significant than the impacts at TSL 2, the lower bound markup scenario impacts on INPV at TSL 3 are still relatively minor compared to the total industry value. Percentage impacts on INPV range from moderately positive to slightly negative at TSL 3. DOE does not anticipate that manufacturers would lose a significant portion of their INPV at TSL 3. While less than the previous TSLs, a large percentage of total shipments still already meet or exceed the efficacy levels prescribed at TSL 3. DOE projects that in 2018, 57 percent of the 4-foot MBP, 100 percent of 8-foot SP slimline, 100 percent of 8-foot RDC HO shipments, 46 percent of 4-foot T5 MiniBP SO, and 39 percent of 4-foot T5 MiniBP HO shipments would meet or exceed the efficacy levels at TSL 3.

DOE expects conversion costs to remain small at TSL 3, compared to the industry value, because a significant percentage of the GSFL shipments, on a total volume basis, already meet or exceed the efficacy levels at this TSL. TSL 3 is the first TSL that increases the efficacy requirement for 4-foot MBP lamps, which as previously noted, comprise a large majority of GSFL shipments. Efficacy gains for these products, however, would likely be achieved with additional REOs, which would not require a significant capital investment. At TSL 3, DOE expects product conversion costs to increase from TSL 2 to $5.1 million. DOE, however, estimates that capital conversion costs will decrease from TSL 2 to $2.0 million at TSL 3 as no amended efficacy standards would be set at TSL 3 for 8-foot SP slimline products or the 8-foot RDC HO product class. The lower ELs for these two product classes outweigh the increase in EL of the 4-ft MBP product class and would cause manufacturers to invest less in capital conversion costs at TSL 3 than at TSL 2.

At TSL 3, under the flat markup scenario, the shipment-weighted-average MPC increases by 16 percent relative to the base-case MPC. In this scenario, INPV impacts are slightly positive because manufacturers' ability to pass the higher production costs to consumers outweighs the $7.2 million in conversion costs. Under the preservation of operating profit markup scenario, the 16 percent MPC increase is slightly outweighed by a lower average markup of 1.49 (compared to the flat markup scenario markup of 1.52) and $7.2 million in conversion costs, resulting in slightly negative impacts at TSL 3. Under the two-tier markup scenario, the 16 percent MPC increase is outweighed by a lower average markup of 1.48 and $7.2 million in conversion costs, resulting in negative impacts at TSL 3.

TSL 4 sets the efficacy level at baseline for two product classes (8-foot SP slimline and 8-foot RDC HO), EL 1 for one product class (4-foot T5 MiniBP HO), and EL 2 for two product classes (4-foot MBP and T5 MiniBP SO). EL 1 for the 4-foot T5 MiniBP HO product class and EL 2 for the 4-foot MBP and T5 MiniBP SO product classes represent max tech. At TSL 4, DOE estimates impacts on INPV to range from $426.8 million to −$330.0 million, or a change in INPV of 27.5 percent to −21.3 percent. At this standard level, industry free cash flow is estimated to decrease by approximately 7 percent to $154.1 million, compared to the base-case value of $164.5 million in the year leading up to energy conservation standards.

Percentage impacts on INPV range from significantly positive to moderately negative at TSL 4. DOE projects that in 2018, 23 percent of 4-

foot MBP, 100 percent of 8-foot SP slimline, 100 percent of 8-foot RDC HO shipments, 14 percent of 4-foot T5 MiniBP SO, and 39 percent of 4-foot T5 MiniBP HO shipments would meet or exceed the efficacy levels at TSL 4.

While DOE expects conversion costs to increase from TSL 3 to TSL 4, DOE estimates the costs will still be small compared to the total industry value. DOE expects product conversion costs for GSFL manufacturers to increase from $5.1 million at TSL 3 to $7.8 million at TSL 4. DOE expects capital conversion costs to increase from $2.0 million at TSL 3 to $18.8 million at TSL 4. While a higher percentage of shipments would need to be converted to meet the efficacy requirements at TSL 4, increasing the efficacy of GSFLs will not likely be a very capital-intensive process, compared to the base case INPV. Instead, increasing GSFL efficacy will likely be more focused around increasing the amount of REOs in the lamps.

At TSL 4, under the flat markup scenario the shipment-weighted-average MPC increases by 52 percent relative to the base-case MPC. In this scenario, INPV impacts are significantly positive because of manufacturers' ability to pass the higher production costs to consumers outweighs the $26.6 million in conversion costs. Under the preservation of operating profit markup scenario, the 52 percent MPC increase is slightly outweighed by a lower average markup of 1.44 (compared to the flat markup scenario markup of 1.52) and $26.6 million in conversion costs, resulting in slightly negative impacts at TSL 4. Under the two-tier markup scenario, the 52 percent MPC increase is moderately outweighed by a lower average markup of 1.39 and $26.6 million in conversion costs, resulting in moderately negative impacts at TSL 4.

TSL 5 sets the efficacy level at max tech for all product classes. This represents EL 1 for one product class (4-foot T5 MiniBP HO) and EL 2 for four product classes (4-foot MBP, 8-foot SP slimline, 8-foot RDC HO, and 4-foot T5 MiniBP SO). At TSL 5, DOE estimates impacts on INPV to range from $444.5 million to −$367.7 million, or a change in INPV of 28.7 percent to −23.7 percent. At this standard level, industry free cash flow is estimated to decrease by 10 percent to $148.7 million, compared to the base-case value of $164.5 million in 2017.

Percentage impacts on INPV range from significantly positive to significantly negative at TSL 5. DOE projects that in 2018, 23 percent of the 4-foot MBP, 26 percent of 8-foot SP slimline, 10 percent of 8-foot RDC HO, 14 percent of 4-foot T5 MiniBP SO, and 39 percent of 4-foot T5 MiniBP HO shipments would meet the efficacy levels at TSL 5.

DOE expects conversion costs to increase from TSL 4 to TSL 5 due to the 8-foot slimline and 8-foot RDC HO product classes moving to max tech at TSL 5. DOE estimates that capital conversion costs will be $29.9 million at TSL 5 as a result of manufacturers having to upgrade all of their production lines to manufacture max-tech products. DOE expects GSFL manufacturers to incur $9.2 million in product conversion costs for lamp redesigns and testing. However, these larger total conversion costs at TSL 5, $39.1 million, remain relatively small compared to the approximately $1.5 billion base-case GSFL INPV.

At TSL 5, under the flat markup scenario, the shipment-weighted-average MPC increases by 55 percent relative to the base-case MPC. In this scenario, INPV impacts are significantly positive because of manufacturers' ability to pass the higher production costs to consumers outweighs the $39.1 million in conversion costs. Under the preservation of operating profit markup scenario, the 55 percent MPC increase is slightly outweighed by a lower average markup of 1.44 (compared to the flat markup scenario markup of 1.52) and $39.1 million in conversion costs, resulting in slightly negative impacts at TSL 5. Under the two-tier markup scenario, the 55 percent MPC increase is significantly outweighed by the lower average markup of 1.38 and $39.1 million in conversion costs, resulting in significantly negative impacts at TSL 5.

Cash-Flow Analysis Results by TSL for Incandescent Reflector Lamps

DOE incorporated two markup scenarios to represent the upper and lower bounds of the IRL industry: The flat, or preservation of gross margin, markup scenario to represent the upper bound (least severe) and the preservation of operating profit markup scenario to represent the lower bound (most severe). DOE, however, analyzed one TSL for IRLs in addition to the baseline level. DOE also analyzed an alternative shipment scenario for IRLs, the shortened lifetime scenario, in addition to the reference case. DOE acknowledges that to meet TSL 1, IRL manufacturers may choose to shorten the lifetime of some of their IRLs, rather than make the investments to increase the efficacy of the lamps. DOE presents the results of this analysis in appendix 13B of this final rule TSD.

Table VII.33 and Table VII.34 present the projected results for IRLs under the flat markup and preservation of operating profit markup scenarios. DOE examined results for one representative product class for IRLs.

TABLE VII.33—MANUFACTURER IMPACT ANALYSIS FOR INCANDESCENT REFLECTOR LAMPS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level
			1
INPV	*(2013$ millions)*	145.4	93.0
Change in INPV	*(2013$ millions)*		(52.5)
	(%)		−36.1
Product Conversion Costs	*(2013$ millions)*		6.2
Capital Conversion Costs	*(2013$ millions)*		66.4
Total Conversion Costs	*(2013$ millions)*		72.6

TABLE VII.34—MANUFACTURER IMPACT ANALYSIS FOR INCANDESCENT REFLECTOR LAMPS—PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO

	Units	Base case	Trial standard level
			1
INPV	*(2013$ millions)*	145.4	89.2
Change in INPV	*(2013$ millions)*		(56.2)
	(%)		−38.6
Product Conversion Costs	*(2013$ millions)*		6.2
Capital Conversion Costs	*(2013$ millions)*		66.4
Total Conversion Costs	*(2013$ millions)*		72.6

TSL 1 sets the efficacy level at EL 1, max tech, for the IRL representative unit. At TSL 1, DOE estimates impacts on INPV to range from −$52.5 million to −$56.2 million, or a change in INPV of −36.1 percent to −38.6 percent. At TSL 1, industry free cash flow is estimated to decrease by approximately 142 percent to −$9.3 million, compared to the base-case value of $22.64 million in 2017.

INPV impacts are significantly negative at TSL 1, regardless of the markup scenario chosen. DOE estimates that in 2018, approximately half of the IRL shipments would meet the efficacy requirements at TSL 1. The other half of the shipments would need to be converted to meet the standards at this TSL.

DOE expects substantial conversion costs for IRL manufacturers at TSL 1 associated with increasing the efficacy of IRLs. Manufacturers would have to invest in retooling burner machines, increasing coating capacity, and upgrading their production lines to allow for enhanced reflector coating. Some manufacturers expressed concern that they do not currently possess the technology required at the analyzed standard level and could exit the market entirely. Overall, DOE expects these capital conversion costs to total $66.4 million for the industry. DOE estimates that IRL manufacturers will also incur $6.2 million in product conversion costs for lamp and production line redesign, as well as testing and certification.

At TSL 1, under the flat markup scenario, the shipment-weighted-average MPC increases by 12 percent relative to the base-case MPC. In this scenario, INPV impacts are negative because the manufacturers' ability to pass the higher production costs to consumers is outweighed by the substantial $72.6 million conversion costs. Under the preservation of operating profit markup scenario, the 12 percent MPC increase is again outweighed by a lower average markup of 1.50 (compared to the flat markup scenario markup of 1.52) and $72.6 million in conversion costs, resulting in significantly negative impacts at TSL 1. The significant capital and product conversion costs that IRL manufacturers must make at TSL 1 cause INPV to be significantly negative, regardless of the markup scenario analyzed.

DOE also analyzed a shortened lifetime sensitivity scenario where manufacturers shorten the lifetime of IRLs to mitigate the investments they must make to comply with the standards at TSL 1. By shortening the lifetime of IRLs, manufacturers reduce the capital conversion costs they must make to comply with the standards at TSL 1. DOE presents the INPV results of this analysis in appendix 13B of this final rule TSD.

b. Impacts on Employment

DOE quantitatively assessed the impacts of potential amended energy conservation standards on direct employment. DOE used the GRIM to estimate the domestic labor expenditures and number of domestic production workers in the base case and at each TSL from 2015 to 2047. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers (ASM), the results of the engineering analysis, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic employment levels. Labor expenditures involved with the manufacturing of the product are a function of the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time.

In the GRIM, DOE used the labor content of each product and the MPCs to estimate the annual labor expenditures in the industry. DOE used census data and interviews with manufacturers to estimate the portion of the total labor expenditures that is attributable to domestic labor.

The production worker estimates in this section only cover workers up to the line-supervisor level involved in fabricating and assembling a product within a manufacturing facility. Workers performing services that are closely associated with production operations, such as material handing with a forklift, are also included as production labor. DOE's estimates account for production workers who manufacture only the specific products covered of this rulemaking. For example, a worker on a fluorescent lamp ballast production line would not be included with the estimate of the number of GSFL or IRL workers.

The employment impacts shown in Table VII.35 and Table VII.36 represent the potential production employment that could result following amended energy conservation standards. The upper bound of the results estimates the maximum change in the number of production workers that could occur after compliance with potential amended standards when assuming that manufacturers continue to produce the same scope of covered products in the same production facilities. It also assumes that domestic production does not shift to lower labor-cost countries. Because there is a real risk of manufacturers evaluating sourcing decisions in response to potential amended standards, the lower bound of the employment results includes the estimated total number of U.S. production workers in the industry who could lose their jobs if some or all existing production were moved outside of the United States. While the results present a range of employment impacts following 2018, the following sections also include qualitative discussions of the likelihood of negative employment impacts at the various TSLs. Finally, the employment impacts shown are independent of the employment impacts from the broader U.S. economy, documented in chapter 17 of this final rule TSD.

Employment Impacts for General Service Fluorescent Lamps

Using 2011 ASM data and interviews with manufacturers, DOE estimates that approximately three quarters of the GSFLs sold in the United States are manufactured domestically. With this assumption, DOE estimates that in the absence of amended energy conservation standards, there would be approximately 1,937 domestic production workers involved in manufacturing GSFLs in 2018. Table VII.35 shows the range of the impacts of amended energy conservation standards on U.S. production workers in the GSFL industry.

TABLE VII.35—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC GENERAL SERVICE FLUORESCENT LAMP PRODUCTION WORKERS IN 2018

	Base case	Trial standard level				
		1	2	3	4	5
Total Number of Domestic Production Workers in 2018 (without changes in production locations)	1,937	1,937	1,937	1,934	1,918	1,916
Potential Changes in Domestic Production Workers in 2018*	.....	.....	.....	(3)–(1,937)	(19)–(1,937)	(21)–(1,937)

*DOE presents a range of potential employment impacts. Numbers in parentheses indicate negative numbers.

At the upper end of the range, all examined TSLs show slight negative impacts on domestic employment levels. DOE believes that manufacturers could face slight negative impacts on domestic employment levels because there would be an increase in the shipments of products typically not manufactured domestically, such as 4-foot T5 MiniBP lamps, and a decrease of products typically manufactured domestically, such as 4-foot MBP lamps.

Several manufacturers emphasized that it is difficult to predict employment impacts of energy conservation standards. One potential uncertainty is the future price of REOs and these employment decisions become more complex when more REOs are required for higher efficacious products.

DOE does not expect any significant changes in domestic employment at TSLs 1 or 2 because standards would not be amended for 4-foot MBP lamps, which comprise approximately 83 percent of GSFL shipments in 2018. While DOE does not anticipate the entire, or even a large portion of, domestic employment to move abroad at TSLs 3, 4, or 5, DOE acknowledges that there could be a loss of domestic employment at these TSLs due to the required increase in efficacy of 4-foot MBP lamps. The potential loss of domestic employment would most likely be a result of a possible increase in the price of REOs. Based on the REO prices modeled in the reference case, DOE does not estimate a significant loss of domestic employment at TSLs 3, 4, or 5. Overall, manufacturers were uncertain about how amended energy conservation standards would affect domestic employment and sourcing decisions. Ultimately, both employment and sourcing decisions could be determined by the stability and predictability of REO prices.

Employment Impacts for Incandescent Reflector Lamps

Using 2011 ASM data and interviews with manufacturers, DOE estimates that approximately half of the IRLs sold in the United States are manufactured domestically. With this assumption, DOE estimates that in the absence of potential amended energy conservation standards, there would be approximately 281 domestic production workers involved in manufacturing IRLs in 2018. Table VII.36 shows the range of the impacts of potential amended energy conservation standards on U.S. production workers in the IRL industry.

TABLE VII.36—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC INCANDESCENT REFLECTOR LAMP PRODUCTION WORKERS IN 2018

	Base case	Trial standard level
		1
Total Number of Domestic Production Workers in 2018 (without changes in production locations)	281	303
Potential Changes in Domestic Production Workers in 2018*	.....	22–(281)

*DOE presents a range of potential employment impacts. Numbers in parentheses indicate negative numbers

At the upper end of the range TSL 1 shows a slight positive impact on domestic employment levels. The increasing product cost at TSL 1 would result in higher labor expenditures per-unit, which could cause manufacturers to hire more domestic workers to meet this added labor demand, assuming IRL production remains in domestic facilities.

Manufacturers are concerned that higher prices for IRLs will drive consumers to alternate technologies and it may not make economic sense for them to continue to produce IRLs. Increasing the efficacy of IRLs would cost manufacturers millions in capital conversion costs. Some stated that they do not have the technology to meet the potential energy conservation standards and said it is possible they would not spend their limited resources to convert all IRL production to meet efficacy levels at TSL 1. Ultimately, the high investment costs associated with increasing the efficacy of IRLs could cause some IRL manufacturers to exit the market or move production abroad.

As part of the MIA for the NOPR, DOE presented a range of potential impacts on domestic IRL employment at the proposed standard level, TSL 1 for the NOPR. In the NOPR analysis for IRLs, the impact at TSL 1 ranged from an additional hiring of approximately 30 employees, due to the increase in

production costs of IRLs at TSL 1, to a potential decrease of approximately 300 employees, if all domestic IRL manufacturing moved overseas. NEMA stated that the lower bound scenario, where up to 300 domestic employees would lose their job, would be the most likely scenario if DOE adopted IRL standards at TSL 1. (NEMA, No. 54 at p. 9) GE similarly expressed concern at the NOPR public meeting, stating that if IRL manufacturers are required to make significant investments to keep IRL production in the United States, it will put any domestic IRL production employment at risk. (GE, Public Meeting Transcript, No. 49 at p. 232)

DOE presents a range of possible domestic employment impacts due to the uncertainty regarding the future production location of IRLs (*i.e.,* domestic versus foreign) as manufacturers could move current domestic production overseas as a result of IRL standards. DOE understands there is a real risk that IRL manufacturers could either move domestic production to a lower labor-cost country in an effort to reduce labor expenditures or they could exit the IRL market altogether due to declining market share of IRLs. DOE took into consideration any potential negative domestic employment impact on U.S. manufacturing caused by either manufacturers moving IRL production overseas in response to potential standards or IRL manufacturers potentially exiting the market before selecting the standards for IRLs in this final rule.

NEMA also commented that the increase in the price of IRLs caused by potential standards could cause consumers to forgo purchasing IRLs in favor of LEDs. Therefore, NEMA believes that there could be a significant reduction in the number of IRLs purchased by consumers, as a result of IRL standards, which will cause domestic IRL manufacturing to be severely impacted. (NEMA, No. 54 at p. 10) While DOE recognizes that LEDs are increasingly taking more and more market share from IRLs over time, DOE's shipment analysis does not model consumers switching from IRLs to LEDs as a result of higher energy conservation standards of IRLs. Therefore, DOE does not anticipate a reduction in the number of domestic employees caused by consumers forgoing the purchases of IRLs in favor of LEDs as a result of potential IRL standards. See chapter 11 of this final rule TSD for a complete description of the shipments analysis.

c. Impacts on Manufacturing Capacity

GSFL manufacturers stated that they did not anticipate any capacity constraints outside of the availability of REOs. One manufacturer pointed out during manufacturer interviews that moving the industry to max tech could triple the amount of REOs demanded by GSFL manufacturers. Tripling the demand for REOs that are already difficult to obtain could trigger some capacity concerns by creating extra volatility in the market. The sharp increase in demand for REOs could cause wide variations in the price and availability of REOs, making production costs more unpredictable.

A few IRL manufacturers expressed concern during manufacturer interviews that their IR coating machines would not have a large enough capacity and that the companies that manufacture those machines might not be able to respond to the demand for IR coating machines necessary to manufacture more efficacious IRLs. Meeting the high level of coating capacity as a result of higher efficacy standards for IRLs this rule may be more difficult for smaller manufacturers than larger manufacturers. Some manufactures suggested that large manufacturers may already have the coating capacity necessary and that the smaller manufacturers may need to incur capital expenditures to add coating capacity at higher standards.

d. Impacts on Subgroups of Manufacturers

Using average cost assumptions to develop an industry cash-flow estimate may not be adequate for assessing differential impacts among manufacturer subgroups. Small manufacturers, niche product manufacturers, and manufacturers exhibiting cost structures substantially different from the industry average could be affected disproportionately. DOE analyzed the impacts to small businesses in section VIII.B and did not identify any other adversely impacted subgroups for GSFLs or IRLs for this rulemaking based on the results of the industry characterization.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of recent or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. 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 efficacy.

For the cumulative regulatory burden analysis, DOE looks at other regulations that could affect GSFL manufacturers that will take effect approximately 3 years before or after the compliance date of amended energy conservation standards for these products. In written comments, manufacturers cited Federal regulations on products other than GSFLs that contribute to their cumulative regulatory burden. The compliance years and expected industry conversion costs of relevant amended energy conservation standards are indicated in Table VII.37.

TABLE VII.37—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING GENERAL SERVICE FLUORESCENT LAMP MANUFACTURERS

Federal energy conservation standards	Approximate compliance date	Estimated total industy conversion expense
General Service Incandescent Lamps, 74 FR 12058 (March 23, 2009)	2012; 2013; & 2014	N/A †
Fluorescent Lamp Ballasts, 76 FR 70548 (November 14, 2011)	2014	$82 million (2010$)
Metal Halide Lamp Fixtures, 79 FR 7746 (February 10, 2014)	2017	$3.0 million (2012$)
General Service Lamps	* 2019	N/A ‡‡
Ceiling Fan Light Kits	* 2019	N/A‡‡
HID Lamps, 79 FR 62910 (October 21, 2014)	** N/A	N/A‡‡
Candelabra Base Incandescent Lamps and Intermediate Base Incandescent Lamps	*** N/A	N/A‡‡

TABLE VII.37—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING GENERAL SERVICE FLUORESCENT LAMP MANUFACTURERS—Continued

Federal energy conservation standards	Approximate compliance date	Estimated total industy conversion expense
Other Incandescent Reflector Lamps	*** N/A	N/A‡‡

† For minimum performance requirements prescribed by the Energy Independence and Security Act of 2007 (EISA 2007), DOE did not estimate total industry conversion costs because an MIA was not completed as part of a rulemaking. Pub. L. 110–140. EISA 2007 made numerous amendments to the Energy Policy and Conservation Act (EPCA) of 1975, Pub. L. 94–163, (42 U.S.C. 6291–6309), which established an energy conservation program for major household appliances and industrial and commercial equipment.

‡‡ For energy conservation standards for rulemakings awaiting DOE final action, DOE does not have a finalized estimated total industry conversion cost.

* The dates listed are an approximation. The exact dates are pending final DOE action.

** DOE has published a notice of proposed determination that did not establish energy conservation standards for any HID lamps.

*** These rulemakings are placed on hold due to the Consolidated Appropriations Act, 2012 (Public Law 112–74).

NEMA commented that energy conservation standards have become increasingly burdensome on lighting manufacturers as the lighting sector has experienced more rulemakings since EISA 2007 than any other covered product sector. NEMA also commented that several of these standards have required significant investment from lighting manufacturers and resulted in a negative financial impact to these lighting manufacturers (NEMA, No. 54 at pp. 2–3) NEMA further stated, that given the large negative impacts to manufacturers based on the proposed IRL standards in the NOPR and the large negative impacts to IRL manufacturers from the previous 2009 Lamps Rule, as well as the other DOE prescribed energy conservation standards on lighting manufacturers, Executive Order 12866 directs DOE to consider ''alternatives to direct regulation'' so that its regulations ''impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the cost of cumulative regulations.'' (NEMA, No. 54 at p. 8)

DOE agrees with NEMA that at least four major energy conservation standards have been enacted on lighting products since EISA 2007. These previous standards covered GSFLs and IRLs (74 FR 34080 [July 14, 2009]), which went into effect in July 2012, fluorescent lamp ballasts (76 FR 70548 [November 14, 2011]), which went into effect in November 2014, and metal halide lamp fixtures (79 FR 7746 [February 10, 2014]), which will go into effect in February 2017. DOE also agrees that the INPV impacts to manufacturers for these rulemakings ranged from moderate to significant, depending on the markup scenario analyzed. The cumulative regulatory burden seeks to mitigate the overlapping effects on manufacturers of new or revised DOE standards and other regulatory actions affecting those same manufacturers. DOE considered the cumulative regulatory burden on lighting manufacturers as one of the burdens of complying with potential GSFL and IRL standards when selecting the final standards for these products in this rule.

3. National Impact Analysis

Projections of shipments are an important input to the NIA. As discussed in section VI.I, DOE developed a shipments model that incorporated substitution matrixes, which specify the product choices available to consumers (lamps as well as lamp-and-ballast combinations for fluorescent lamps) depending on whether they are renovating lighting systems, installing lighting systems in new construction, or simply replacing lamps. The model includes a module that assigns shipments to product classes and efficacy levels based on consumer sensitivities to first costs and operation and maintenance costs. The model estimates the shipments of each lamp type in the base case and under the conditions set by each TSL. Table VII.37 and Table VII.38 present the estimated cumulative shipments in the base case and the relative change under each TSL.

TABLE VII.38—EFFECT OF STANDARD CASES ON CUMULATIVE SHIPMENTS OF GSFL IN 2018–2047

Lamp type	Base case	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
	Cumulative shipments millions	Change in shipments relative to base case (percent)	Change in shipments relative to base case (percent)	Change in shipments relative to base case (percent)	Change in shipments relative to base case	Change in shipments relative to base case (percent)
4-foot MBP	5,800	0.00	0.24	−1.8	−12	−12
8-foot SP slimline	190	0.00	−5.2	3.6	35	9.6
8-foot RDC HO	43	0.00	−0.28	0.00	−0.01	−0.29
4-foot T5, MiniBP SO	330	0.00	0.77	23	160	170
4-foot T5, MiniBP HO	760	0.00	0.02	−0.01	−0.07	−0.05
2-foot U-shaped	240	0.00	0.00	0.00	0.00	0.00
Total GSFL *	7,300	0.00	0.09	−0.24	−1.8	−1.4

* May not sum due to rounding.

TABLE VII.39—EFFECT OF STANDARD CASES ON CUMULATIVE SHIPMENTS OF IRL IN 2018–2047

Lamp type	Base case	TSL 1
	Cumulative shipments millions	Change in shipments relative to base case
Standard spectrum; >2.5 inch diameter; <125 V	230	−16%

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for GSFLs and IRLs purchased in the 30-year period that begins in the year of anticipated 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, accounting for the effects of the standards on product switching and shipments. Table VII.39 presents the estimated energy savings for each considered GSFL TSL, and Table VII.40 presents the estimated energy savings for each IRL TSL. The approach for estimating shipments and NES is further described in sections VI.I and VI.J and is detailed in chapter 11 and 12 of the final rule TSD.

TABLE VII.40—CUMULATIVE ENERGY SAVINGS FOR GSFL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2047

	Trial standard level				
	1	2	3	4	5
	quads				
Primary Energy (Power Sector Consumption)	0.18	0.19	0.71	2.4	2.4
FFC Energy	0.19	0.20	0.74	2.5	2.6

TABLE VII.41—CUMULATIVE ENERGY SAVINGS FOR IRL TRIAL STANDARD LEVEL FOR UNITS SOLD IN 2018–2047

	Trial Standard Level
	1
	quads
Primary Energy (Power Sector Consumption)	0.011
FFC Energy	0.011

OMB Circular A–4 [91] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using nine, rather than 30, years of product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[92] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to GSFLs and IRLs. Thus, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology. The NES results based on nine years of shipments are presented in Table VII.41 and Table VII.42. The impacts are counted over the lifetime of GSFLs and IRLs purchased in 2018–2026.

TABLE VII.42—CUMULATIVE ENERGY SAVINGS FOR GSFL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2026

	Trial standard level				
	1	2	3	4	5
	quads				
Primary Energy (Power Sector Consumption)	0.098	0.10	0.38	1.2	1.2
FFC Energy	0.10	0.11	0.39	1.2	1.2

[91] 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/*).

[92] 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.

TABLE VII.43—CUMULATIVE ENERGY SAVINGS FOR IRL TRIAL STANDARD LEVEL FOR UNITS SOLD IN 2018–2026

	Trial Standard Level
	1
	quads
Primary Energy (Power Sector Consumption)	0.0089
FFC Energy	0.0093

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the TSLs considered for GSFLs and IRLs. DOE quantified the costs and benefits attributable to each TSL as the difference in total product costs and total operating costs between each standards case and the base case, accounting for the effects of the standards on product switching and shipments.

A portion of the savings in operating costs in some of the TSLs is due to switching to products with lower operating costs. In particular, the adopted standard in the rulemaking is projected to increase the typical cost of 4-foot MBP lamps relative to 8-foot SP slimline or 4-foot MiniBP T5s, therefore driving some consumers to shift toward the latter two product classes, yielding a reduction in operating costs relative to the base case.

Table VII.43 shows the consumer NPV results for each TSL considered for GSFLs, and Table VII.44 shows the consumer NPV results for each TSL considered for IRLs. In each case, the impacts cover the lifetime of product purchased in 2018–2047.

TABLE VII.44—NET PRESENT VALUE OF CONSUMER BENEFITS FOR GSFL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2047

	billion 2013$				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
7% discount rate	−0.37	−0.51	0.35	2.0	1.6
3% discount rate	−0.42	−0.61	1.1	5.5	4.9

TABLE VII.45—NET PRESENT VALUE OF CONSUMER BENEFITS FOR IRL TRIAL STANDARD LEVEL FOR UNITS SOLD IN 2018–2047

	TSL 1
	billion 2013$
7% discount rate	0.17
3% discount rate	0.25

The NPV results based on the aforementioned 9-year shipments period are presented in Table VII.45 and Table VII.46. The impacts are counted over the lifetime of product 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 VII.46—NET PRESENT VALUE OF CONSUMER BENEFITS FOR GSFL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2018–2026

	billion 2013$				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
7% discount rate	−0.26	−0.37	0.16	0.65	0.33
3% discount rate	−0.25	−0.4	0.52	1.9	1.5

TABLE VII.47—NET PRESENT VALUE OF CONSUMER BENEFITS FOR IRL TRIAL STANDARD LEVEL FOR UNITS SOLD IN 2018–2026

	TSL 1
	billion 2013$
7% discount rate	0.14
3% discount rate	0.19

c. Alternative Scenario Analyses

As discussed in section VI.I and VI.J, DOE conducted several sensitivity analyses to determine the potential impact of uncertain future prices for materials that are important to the manufacture of efficient GSFL and IRL products.

In the case of GSFLs, DOE considered the possibility that the price of rare earth oxides would rise again. As mentioned in section VI.I, rare earth oxides, used in GSFL phosphors to improve lamp efficacy, underwent a large price spike in 2010 and 2011, but their prices have since lowered to almost their pre-spike level. To assess the effect of higher rare earth prices on the impact of energy conservation standards for GSFLs, DOE performed an alternative analysis in which the average price of rare earth oxides was assumed to be midway between the peak of the 2011 price spike and the pre-spike level, and was assumed to remain at that elevated level throughout the analysis period. The details of the price model that DOE used for this analysis are given in appendix 11B of the final rule TSD. The impacts of the modeled rare earth oxide price increase on the NES and NPV of this rulemaking were small to moderate and did not affect the ranking of the TSLs (see chapter 12 of the final rule TSD).

In the case of IRLs, DOE considered the possibility of a significant increase in the price of xenon gas, which DOE believes is now used as a fill gas in all standards-compliant IRL products. Demand for xenon gas has been rising recently, which may lead to price

increases in the future. To assess the effect of a significant xenon price increase on the impact of an energy conservation standard for IRLs, DOE performed an alternative analysis in which the price of xenon is assumed to increase by a factor of ten in the near future and remain at these elevated levels throughout the analysis period. The details of the xenon market assessment used to inform this analysis are given in appendix 7C of the final rule TSD. The impacts of the modeled xenon price increase on the NES and NPV of this rulemaking were minimal and did not affect the ranking of the TSLs (see chapter 12 of the final rule TSD).

d. Indirect Impacts on Employment

DOE expects energy conservation standards for GSFLs and IRLs to reduce energy costs for product owners and the resulting net savings to be redirected to other forms of economic activity. Those shifts in spending and economic activity could affect the demand for labor. As described in section VI.O, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames, where these uncertainties are reduced.

The results suggest that the 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 17 of the final rule TSD presents detailed results.

4. Impact on Utility or Performance of Equipment

DOE concluded that the standards it proposed in the NOPR will not lessen the utility or performance of GSFLs and IRLs. DOE reached this conclusion based on the analyses conducted to develop the proposed GSFL and IRL efficacy levels. In the engineering analysis, DOE considered only technology options that would not have adverse impacts on product utility. See section VI.B and chapter 4 of the final rule TSD for further details regarding the screening analysis. DOE also divided products in to classes based on performance-related features that justify different standard levels such as those impacting consumer utility. DOE then developed separate standard levels for each product class. See section VI.C and chapter 3 of the final rule TSD for further details regarding product classes selected and consumer utility.

Further, DOE's evaluation shows that products meeting proposed efficacy levels are not of lesser utility or performance than products at existing standard levels. DOE considered several characteristics when evaluating utility and performance of GSFLs including physical constraints (*i.e.,* shape and size), diameter, lumen package, color quality (*i.e.,* CCT and CRI), lifetime, and ability to dim. As discussed in section VI.B.1, DOE ensured full wattage lamps were able to meet the proposed efficacy levels to preserve reliable dimming. DOE determined that these GSFL performance characteristics were not diminished for any proposed standard level. For IRLs, DOE considered lumen package, lifetime, shape, and diameter when evaluating utility and performance. DOE determined that these IRL performance characteristics were not diminished for any proposed standard level. DOE did not assess CRI or CCT for IRLs because they are intended as a measure of the light quality of non-incandescent/halogen lamps when compared with incandescent/halogen lamps. See section VI.D and chapter 5 of the final rule TSD for further details on the selection of more efficacious substitutes for the baseline and development of proposed efficacy levels.

5. Impact of Any Lessening of Competition

Per EPCA, DOE is required to establish energy conservation standards that ''shall be designed to achieve the maximum improvement in energy efficiency * * * which the Secretary determines is technologically feasible and economically justified.'' (42 U.S.C. 6295(o)(2)(A)) To determine economic justification, DOE considers (among other factors) ''the economic impact of the standard on the manufacturers'' and ''the impact of any lessening of competition * * * that is likely to result.'' (42 U.S.C. 6295(o)(2)(B)(i))

NEMA noted that the efficacy levels proposed for IRLs in the NOPR were dependent on the use of a single-ended IR burner which is limited to a single company due to patent, and that DOE legally cannot favor a single company over all others. (NEMA, No. 54 at p. 10) NEMA commented that only one US manufacturer has an industrial setup to produce single-ended IR burners which are used in smaller diameter lamps. NEMA remarked that the 3.5 percent discount in efficacy would grant a competitive advantage to this manufacturer. (NEMA, No. 54 at pp. 30–31)

In the engineering analysis, DOE scaled the efficacy levels of large diameter IRLs (*i.e.,* greater than 2.5 inches) to determine the efficacy levels of small diameter IRLs (*i.e.,* equal to or less than 2.5 inches). In addition to a reduction in efficacy due to a small diameter, DOE also applied an additional 3.5 percent reduction to account for the need to use single-ended burners in small diameter lamps to maintain the same shape. DOE did not find a patent specific to single-ended burners used in small diameter IRLs and therefore, believes single-ended technology is accessible. Also, based on interviews with manufacturers DOE does not believe there are any technical impediments to setting up the production of single-ended small diameter IRLs. DOE acknowledges that manufacturers who do not currently have the industrial setup to produce single-ended IR burners, could face additional conversion costs to implement this production setup than manufacturers that already have this production setup. DOE did not include these additional conversion costs for those manufacturers without single-ended burner production capabilities in the MIA since there are no manufacturers currently producing small diameter IRLs that are within the scope of this rulemaking and the MIA typically only analyzes the costs associated with maintaining the total base case production volume at the standards efficacy levels for each product class.

While DOE acknowledges that there could be additional costs for manufacturers without single-ended burner production capabilities, based on manufacturer interviews and an assessment of the technology, DOE does not believe there is a technical or legal (*i.e.,* patent) barrier to implementing a single-ended burner manufacturing process. Therefore, DOE concluded that the efficacy level determined for IRLs in this final rule would not result in competitive disadvantage to manufacturers.

DOJ also reviewed the standards proposed in the NOPR analysis for GSFLs and IRLs and similarly concluded that they are unlikely to have a significant adverse impact on competition.

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 or costs of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. As a measure of this reduced demand, the Utility Impact Analysis show reductions in electricity generation and installed capacity across the analysis period, with the magnitude and peak of these reductions varying by electricity source fuel type, such as coal, natural gas, nuclear, oil, and renewables. Chapter 16 in the final rule TSD presents the estimated reduction in generation and installed capacity for the TSLs that DOE considered in this rulemaking.

Energy savings from standards for GSFLs and IRLs could also produce environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with electricity production. Table VII.47 and Table VII.48 provide DOE's estimate of cumulative emissions reductions projected to result from the TSLs considered in this rulemaking. DOE reports annual emissions reductions for each TSL in chapter 14 of the final rule TSD.

TABLE VII.48—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR GSFL TRIAL STANDARD LEVELS

	Trial Standard Level				
	1	2	3	4	5
Power Sector Emissions					
CO_2 (million metric tons)	12	12	45	150	150
SO_2 (thousand tons)	11	11	41	140	140
NO_X (thousand tons)	9.4	9.8	36	120	120
Hg (tons)	0.033	0.034	0.13	0.42	0.43
CH_4 (thousand tons)	1.0	1.1	4.0	14	14
N_2O (thousand tons)	0.15	0.15	0.58	2.0	2.0
Upstream Emissions					
CO_2 (million metric tons)	0.58	0.60	2.3	7.7	7.9
SO_2 (thousand tons)	0.11	0.11	0.41	1.4	1.4
NO_X (thousand tons)	8.2	8.5	32	110	110
Hg (tons)	0.00024	0.00025	0.00093	0.0031	0.0032
CH_4 (thousand tons)	48	50	190	640	650
N_2O (thousand tons)	0.0052	0.0054	0.020	0.069	0.070
Total Emissions					
CO_2 (million metric tons)	12	13	48	160	160
SO_2 (thousand tons)	11	11	42	140	140
NO_X (thousand tons)	18	18	69	230	240
Hg (tons)	0.033	0.035	0.13	0.43	0.44
CH_4 (thousand tons)	49	51	190	650	660
CH_4 (million tons CO_2eq)*	1,400	1,400	5,400	18,000	19,000
N_2O (thousand tons)	0.15	0.16	0.60	2.0	2.1
N_2O (thousand tons CO_2eq)*	41	42	160	540	550

* CO_2eq is the quantity of CO_2 that would have the same GWP.

TABLE VII.49—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR IRL TRIAL STANDARD LEVEL

	Trial Standard Level
	1
Power Sector Emissions	
CO_2 (million metric tons)	0.74
SO_2 (thousand tons)	0.75
NO_X (thousand tons)	0.62
Hg (tons)	0.0023
CH_4 (thousand tons)	0.06
N_2O (thousand tons)	0.0085
Upstream Emissions	
CO_2 (million metric tons)	0.032
SO_2 (thousand tons)	0.006
NO_X (thousand tons)	0.45
Hg (tons)	0.000014
CH_4 (thousand tons)	0.0003
N_2O (thousand tons)	2.6
Total Emissions	
CO_2 (million metric tons)	0.77
SO_2 (thousand tons)	0.76
NO_X (thousand tons)	1.1
Hg (tons)	0.0023
CH_4 (thousand tons)	2.7
CH_4 (thousand tons CO_2eq)*	76
N_2O (thousand tons)	0.0088
N_2O (thousand tons CO_2eq)*	2.3

* CO_2eq is the quantity of CO_2 that would have the same GWP.

As part of the analysis for this rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that DOE estimated for each of the TSLs considered. As discussed in section VI.M.1, DOE used the most recent values for the SCC developed by an interagency process. The four sets of SCC values resulting from that process (expressed in 2013$) 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). These values correspond to the value of emission reductions in 2015; the values for later years are higher due to increasing

damages as the projected magnitude of climate change increases.

Table VII.49 and Table VII.50 present 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, and these results are presented in chapter 15 of the final rule TSD.

TABLE VII.50—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER GSFL TRIAL STANDARD LEVELS

TSL	SCC Case *			
	5% discount rate, average *	3% discount rate, average *	2.5% discount rate, average *	3% discount rate, 95th percentile *
	Million 2013$			
Power Sector Emissions				
1	100	430	660	1,300
2	110	440	690	1,400
3	390	1,600	2,600	5,000
4	1,300	5,400	8,500	17,000
5	1,300	5,600	8,700	17,000
Upstream Emissions				
1	5.0	21	33	65
2	5.2	22	34	67
3	19	82	130	250
4	65	270	430	840
5	66	280	440	860
Total Emissions				
1	110	450	690	1,400
2	110	470	720	1,400
3	410	1,700	2,700	5,300
4	1,400	5,700	8,900	18,000
5	1,400	5,800	9,100	18,000

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.0, $40.5, $62.4, and $119 per metric ton (2013$).

TABLE VII.51—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER IRL TRIAL STANDARD LEVEL

TSL	SCC Case *			
	5% discount rate, average *	3% discount rate, average *	2.5% discount rate, average *	3% discount rate, 95th percentile *
	Million 2013$			
Power Sector Emissions				
1	7.1	28	44	86
Upstream Emissions				
1	0.31	1.2	1.9	3.7
Total Emissions				
1	7.4	30	46	90

* 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 amended rule the

most recent values and analyses resulting from the interagency process.

DOE also estimated the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from amended standards for GSFLs and IRLs. The dollar-per-ton value that DOE used is discussed in section VI.L. Table VII.51 and Table VII.52 present the cumulative present values for each TSL calculated using 7-percent and 3-percent discount rates.

TABLE VII.52—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER GSFL TRIAL STANDARD LEVELS

TSL	3% discount rate	7% discount rate
	Million 2013$	
Power Sector Emissions		
1	17	11
2	18	12
3	66	42
4	210	130
5	220	140
Upstream Emissions		
1	14	8.8
2	15	9.3
3	56	34
4	190	110
5	190	110
Total Emissions		
1	32	20
2	33	21
3	120	75
4	400	240
5	410	250

TABLE VII.53—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER IRL TRIAL STANDARD LEVEL

TSL	3% discount rate	7% discount rate
	Million 2013$	
Power Sector Emissions		
1	1.3	0.97
Upstream Emissions		
1	0.92	0.67
Total Emissions		
1	2.2	1.6

7. 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 VII.53 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 in this rulemaking, at both a 7-percent and 3-percent discount rate. The CO_2 values used in the columns of each table correspond to the four sets of SCC values discussed previously.

TABLE VII.54—NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS UNDER GSFL TRIAL STANDARD LEVELS

TSL	Consumer NPV at 3% Discount Rate added with:			
	SCC Case $12.0/metric ton CO_2 plus NO_X*	SCC Case $40.5/metric ton CO_2 plus NO_X*	SCC Case $62.4/metric ton CO_2 plus NO_X*	SCC Case $119/metric ton CO_2 plus NO_X*
	Billion 2013$			
1	−0.28	0.058	0.31	0.98
2	−0.47	−0.11	0.15	0.85
3	1.7	3.0	3.9	6.5
4	7.2	12	15	23
5	6.7	11	14	23
TSL	Consumer NPV at 7% Discount Rate added with:			
	SCC Case $12.0/metric ton CO_2 plus NO_X*	SCC Case $40.5/metric ton CO_2 plus NO_X*	SCC Case $62.4/metric ton CO_2 plus NO_X*	SCC Case $119/metric ton CO_2 plus NO_X*
	Billion 2013$			
1	−0.24	0.097	0.34	1.0
2	−0.37	0.153	0.24	0.94
3	0.84	2.2	3.1	5.7
4	3.6	8.0	11	20
5	3.3	7.7	11	20

*These label values represent the global SCC in 2015, in 2013$. For NO_X emissions, each case uses the medium value, which corresponds to $2,684 per ton.

TABLE VII.55—NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS UNDER IRL TRIAL STANDARD LEVEL

TSL	SCC Case $12.0/metric ton CO_2 plus NO_X*	SCC Case $40.5/metric ton CO_2 plus NO_X*	SCC Case $62.4/metric ton CO_2 plus NO_X*	SCC Case $119/metric ton CO_2 plus NO_X*
	Billion 2013$			
1	0.26	0.29	0.30	0.35
	Consumer NPV at 7% Discount Rate added with:			
TSL	SCC Case $12.0/metric ton CO_2 plus NO_X*	SCC Case $40.5/metric ton CO_2 plus NO_X*	SCC Case $62.4/metric ton CO_2 plus NO_X*	SCC Case $119/metric ton CO_2 plus NO_X*
	Billion 2013$			
1	0.18	0.20	0.22	0.26

* These label values represent the global SCC in 2015, in 2013$. For NO_X emissions, each case uses the medium value, which corresponds to $2,684 per ton.

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of product shipped in 2018–2047. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one metric ton of CO_2 in each year. These impacts continue well beyond 2100.

C. 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 significant conservation of energy.'' (42 U.S.C. 6295(o)(3)(B))

DOE considers the impacts of standards at each TSL, beginning with the max tech level, to determine whether that level meets the evaluation criteria. Where the max tech level is not justified, DOE then considers the next most efficient level and undertakes the same evaluation until it reaches the highest efficacy level that is technologically feasible, economically justified, and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, Table VII.55 and Table VII.56 in this section summarize the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. The efficacy levels contained in each TSL are described in section VII.A. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard (see section VII.B.1.b) and impacts on employment. DOE discusses the impacts on employment in GSFL and IRL manufacturing in section VII.B.2.b and discusses the indirect employment impacts in section VII.B.3.d.

DOE also notes that the economics literature provides a wide-ranging discussion of how consumers trade off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to explain why consumers appear to undervalue energy efficiency improvements. There is evidence that consumers undervalue future energy savings as a result of (1) a lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant accelerating or altering purchases; (3) inconsistent weighting of future energy cost savings relative to available returns on other investments; (4) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (5) a divergence in incentives (for example, renter versus owner or builder versus purchaser). Other literature indicates that with less-than-perfect foresight and a high degree of uncertainty about the future, it may be rational for consumers to trade off these types of investments at a higher-than-expected rate between current consumption and uncertain future energy cost savings. This undervaluation suggests that regulation that promotes energy efficiency can produce significant net private gains (as well as producing social gains by, for example, reducing pollution).

In DOE's current regulatory analysis, potential changes in the benefits and costs of a regulation due to changes in consumer purchase decisions are included in two ways. First, if consumers forego a purchase of a product in the standards case, this decreases sales for product manufacturers and the cost to manufacturers is included in the MIA. Second, DOE accounts for energy savings attributable only to products actually used by consumers in the standards case; if a standard decreases the number of products purchased by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides estimates of changes in the volume of product purchases in chapter 9 of the final rule TSD. DOE's current analysis does not explicitly control for heterogeneity in consumer preferences, preferences across subcategories of products or specific features, or

consumer price sensitivity variation according to household income.[93]

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in consumer purchase decisions due to an energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[94] 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 future regulatory analysis.

1. Benefits and Burdens of Trial Standard Levels Considered for General Service Fluorescent Lamps

Table VII.55 and Table VII.56 summarize the quantitative impacts estimated for each TSL for GSFL.

TABLE VII.56—SUMMARY OF ANALYTICAL RESULTS FOR GSFL: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
National FFC Energy Savings quads					
	0.19	0.20	0.74	2.5	2.6
NPV of Consumer Benefits 2013$ billion					
13% discount rate	0.42	0.61	1.1	5.5	4.9
17% discount rate	0.37	0.51	0.35	2.0	1.6
Cumulative Emissions Reduction (Total FFC Emissions)					
CO_2 (million metric tons)	12	13	48	160	160
SO_2 (thousand tons)	11	11	42	140	140
NO_X (thousand tons)	18	18	69	230	240
Hg (tons)	0.033	0.035	0.13	0.43	0.44
CH_4 (thousand tons)	49	51	190	650	660
CH_4 (million tons CO_2eq)*	1,400	1,400	5,400	18,000	19,000
NO_2 (thousand tons)	0.15	0.16	0.60	2.0	2.1
NO_2 (thousand tons CO_2eq)*	41	42	160	540	550
Value of Emissions Reduction (Total FFC Emissions)					
CO_2, *2013$ billion***	0.11 to 1.4	0.11 to 1.4	0.41 to 5.3	1.4 to 18	1.4 to 18
NO_X—3% discount rate, *2013$ million*	32	33	120	400	410
NO_X—7% discount rate, *2013$ million*	20	21	75	240	250

CO_2 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 VII.57 SUMMARY OF ANALYTICAL RESULTS FOR GSFL: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Manufacturer Impacts					
Change in Industry NPV (*2013$ million)*†					
(Base Case Industry NPV of $1,551.6)	49.5—(42.9)	48.2—(56.5)	130.4—(74.2)	426.8—(330.0)	444.6—(367.7)
Change in Industry NPV (%)†	3.2—(2.8)	3.1—(3.6)	8.4—(4.8)	27.5—(21.3)	28.7—(23.7)
Consumer Mean LCC Savings 2013$					
4-foot MBP ≤4,500 K	0.00	0.00	0.07	5.98	5.98
4-foot T5 MiniBP SO ≤4,500 K	2.87	2.87	2.87	5.68	5.68
4-foot T5 MiniBP HO ≤4,500 K	4.74	4.74	4.74	4.74	4.74
8-foot SP Slimline ≤4,500 K	0.00	5.02	0.00	0.00	1.72
8-foot RDC HO ≤4,500 K	−9.66	−16.94	0.00	0.00	−16.94
Weighted Average*	0.49	0.56	0.54	5.55	5.47
Consumer Mean PBP *years***					
4-foot MBP ≤4,500 K	0.0	0.0	0.5	3.1	3.1
4-foot T5 MiniBP SO ≤4,500 K	1.2	1.2	1.2	4.0	4.0
4-foot T5 MiniBP HO ≤4,500 K	2.8	2.8	2.8	2.8	2.8
8-foot SP Slimline ≤4,500 K	0.0	0.5	0.0	0.0	4.4
8-foot RDC HO ≤4,500 K	NER	NER	0.0	0.0	NER
Weighted Average*	0.3	0.3	0.8	3.0	3.2

[93] P.C. Reiss and M.W. White, Household Electricity Demand, Revisited, *Review of Economic Studies* (2005) 72, 853–883.

[94] Alan Sanstad, Notes on the Economics of Household Energy Consumption and Technology Choice. Lawrence Berkeley National Laboratory (2010) (Available at: *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf.*

TABLE VII.57 SUMMARY OF ANALYTICAL RESULTS FOR GSFL: MANUFACTURER AND CONSUMER IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Weighted-Average Consumers with Net Cost (%)*	8.6	10.5	61.1	22.0	24.9
Weighted-Average Consumers with Net Benefit (%)*	5.9	6.9	34.9	73.4	75.1
Weighted-Average Consumers with No Impact (%)*	85.5	82.6	4.0	4.6	0.0

* DOE calculates the LCC savings and PBP relative to the baseline for each EL for each representative product class. Each TSL corresponds to a specific EL for each representative product class. (See Table VII.1 for the TSLs analyzed and the corresponding ELs.) The weighted averages are calculated by weighting the shares of each product class in total projected shipments in 2018.

** Does not include weighting for "NER" scenarios. Entries of "NER" indicate standard levels that do not reduce operating costs, which prevents the consumer from recovering the increased purchase cost.

† Values in parentheses are negative values.

First, DOE considered TSL 5, the most efficient level (max tech), which would save an estimated total of 2.56 quads of energy, an amount DOE considers significant. TSL 5 has an estimated NPV of consumer benefit of $1.6 billion using a 7-percent discount rate, and $4.9 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 5 are 160 million metric tons of CO_2, 240 thousand tons of NO_X, 140 thousand tons of SO_2, 0.44 tons of Hg, 660 thousand tons of CH_4, and 2.1 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reductions at TSL 5 ranges from $1.4 billion to $18 billion.

At TSL 5, DOE estimates industry will need to invest approximately $39.1 million in conversion costs. At TSL 5, the projected change in INPV ranges from a decrease of $367.7 million to an increase of $444.6 million, which equates to a decrease of 23.7 percent and an increase of 28.7 percent, respectively, in INPV for manufacturers of covered GSFLs.

At TSL 5, the weighted-average LCC savings is $5.98 for the 4-foot MBP lamps, $5.68 for the 4-foot T5 MiniBP SO lamps, $4.74 for the 4-foot T5 MiniBP HO lamps, $1.72 for the 8-foot SP slimline lamps, and −$16.94 for the 8-foot RDC HO lamps.

At TSL 5, 8-foot HO lamps are required to meet EL 2, which represents an 800 series full wattage T8 lamp. Because no reduced wattage 8-foot HO lamps exist at this level, consumers who require 8-foot HO lamps must purchase a more efficient lamp that consumes the same amount of energy as lamps available at lower efficacy levels. Thus, for an increased cost, these consumers must purchase a lamp that produces more light but does not save energy. Because there are no energy-saving options for 8-foot HO consumers at TSL 5, all consumers that continue to purchase this lamp type would experience negative LCC savings.

After considering the analysis and weighing the benefits and the burdens, DOE has determined that at TSL 5 for GSFLs, the benefits of energy savings, positive NPV of total consumer benefits, the overall positive impacts on consumers, emission reductions and the estimated monetary value of the emissions reductions would be outweighed by the potential reduction in industry value and negative LCC savings experienced by consumers of 8-foot RDC HO lamps. Therefore, the Secretary has concluded that TSL 5 is not economically justified.

Next, DOE considered TSL 4, which represents the combination of ELs that achieve the maximum NPV. TSL 4 would save an estimated total of 2.5 quads of energy, an amount DOE considers significant and approaches maximum energy savings achieved at TSL 5. TSL 4 has an estimated NPV of consumer benefit of $2.0 billion using a 7-percent discount rate, and $5.5 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 4 are 160 million metric tons of CO_2, 230 thousand tons of NO_X, 140 thousand tons of SO_2, 0.43 tons of Hg, 650 thousand tons of CH_4, and 2.0 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $1.4 billion to $18 billion.

At TSL 4, DOE estimates industry will need to invest approximately $26.6 million in conversion costs. At TSL 4, the projected change in INPV ranges from a decrease of $330.0 million to an increase of $426.8 million, which equates to a decrease of 21.3 percent and an increase of 27.5 percent, respectively, in INPV for manufacturers of covered GSFLs.

At TSL 4, the weighted average LCC savings is $5.98 for the 4-foot MBP lamps, $5.68 for the 4-foot T5 MiniBP SO lamps, and $4.74 for the 4-foot T5 MiniBP HO lamps. At TSL 4, no amended standard is adopted for the 8-foot SP slimline lamps or 8- foot RDC HO lamps and therefore LCC savings are not reported.

After considering the analysis and weighing the benefits and the burdens, DOE determined that at TSL 4 for GSFLs, the benefits of energy savings, positive NPV of total consumer benefits, the overall positive impacts on consumers, emission reductions and the estimated monetary value of the emissions reductions would outweigh the potential reduction in industry value. The Secretary has concluded that TSL 4 would save a significant amount of energy and is technologically feasible and economically justified.

Based on the above considerations, DOE adopts the energy conservation standards for GSFLs at TSL 4. Table VII.57 presents the adopted energy conservation standards for GSFLs.

TABLE VII.58—ENERGY CONSERVATION STANDARDS FOR GSFL

Lamp type	CCT *K*	Adopted level *lm/W*
4-Foot Medium Bipin	≤4,500	92.4
	>4,500	88.7
2-Foot U-Shaped	≤4,500	85.0
	>4,500	83.3
8-Foot Slimline	≤4,500	97.0
	>4,500	93.0
8-Foot High Output	≤4,500	92.0
	>4,500	88.0

TABLE VII.58—ENERGY CONSERVATION STANDARDS FOR GSFL—Continued

Lamp type	CCT K	Adopted level lm/W
4-Foot Miniature Bipin Standard Output	≤4,500	95.0
	>4,500	89.3
4-Foot Miniature Bipin High Output	≤4,500	82.7
	>4,500	76.9

2. Summary of Benefits and Costs (Annualized) of the Adopted Standards for General Service Fluorescent Lamps

The benefits and costs of these standards, for product 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 product that meet the amended standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[95]

Estimates of annualized benefits and costs of the standards for GSFL are shown in Table VII.58. 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 that has a value of $40.5/t in 2015, the cost of the standards in this rule is $841 million per year in increased equipment costs, while the benefits are $1,030 million per year in reduced equipment operating costs, $310 million in CO_2 reductions, and $22.4 million in reduced NO_X emissions. In this case, the net benefit amounts to $516 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series that has a value of $40.5/t in 2015, the cost of the standards in this rule is $724 million per year in increased equipment costs, while the benefits are $1,020 million per year in reduced operating costs, $310 million in CO_2 reductions, and $21.6 million in reduced NO_X emissions. In this case, the net benefit amounts to $627 million per year. [96]

TABLE VII.59—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR GSFL (TSL 4) *

	Discount rate	Primary estimate	Low net benefits estimate	High net benefits estimate
		Million 2013$/year		
Benefits				
Consumer Operating Cost Savings	7%	1,030	1,010	1,050
	3%	1,020	1,000	1,050
CO_2 Reduction Monetized Value ($12.0/t case) **.	5%	97.5	97.1	97.5
CO_2 Reduction Monetized Value ($40.5/t case) **.	3%	310	308	310
CO_2 Reduction Monetized Value ($62.4/t case) **.	2.5%	448	446	448
CO_2 Reduction Monetized Value ($119/t case) **.	3%	950	946	950
NO_X Reduction Monetized Value (at $2,684/ton) **.	7%	22.4	22.3	22.4
	3%	21.6	21.5	21.6
Total Benefits †	7% plus CO_2 range	1,150 to 2,000	1,130 to 1,980	1,170 to 2,030
	7%	1,360	1,340	1,390
	3% plus CO_2 range	1,140 to 2,000	1,120 to 1,970	1,170 to 2,030
	3%	1,360	1,330	1,390
Costs				
Consumer Incremental Product Costs	7%	841	882	841
	3%	724	763	724
Net Benefits				
Total †	7% plus CO_2 range	300 to 1,160	241 to 1,090	328 to 1,180
	7%	516	452	540
	3% plus CO_2 range	415 to 1,270	350 to 1,200	443 to 1,300

[95] See section VI.M for description of the method used for annualization.

[96] The annualized consumer operating cost savings, NO_X reduction monetized value, and consumer incremental product costs are higher with a 7-percent discount rate than with a 3-percent discount rate. This is in contrast to the present values in Table VII.58. Under certain conditions, different present values may lead to similar annualized values when calculated with different discount rates. In this case, the combined effects of (a) projecting to 2018 the present values that DOE calculated in 2014, and (b) annualizing the projected values with 3 percent and 7 percent discount rates over the 30-year analysis period, lead to similar annualized values. For consumer incremental product costs, the effect is more pronounced because the time series covers only 30 years, instead of the longer period covered for operating cost savings and NO_X reduction monetized value.

TABLE VII.59—ANNUALIZED BENEFITS AND COSTS OF AMENDED STANDARDS FOR GSFL (TSL 4) *—Continued

	Discount rate	Primary estimate	Low net benefits estimate	High net benefits estimate
	3%	627	561	655

* This table presents the annualized costs and benefits associated with GSFLs shipped in 2018–2047. These results include benefits to consumers that 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 Benefits Estimate assumes the Reference case energy prices from *AEO 2014* and decreasing incremental product cost, due to price learning. The Low Benefits Estimate uses the Low Economic Growth energy prices from *AEO 2014* and constant real product prices. The High Benefits Estimate assumes the Low Economic Growth energy price estimates from *AEO 2014* and the same decreasing incremental product costs as in the Primary Benefits Estimate.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† 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. Benefits and Burdens of Trial Standard Levels Considered for Incandescent Reflector Lamps

Table VII.59 and Table VII.60 summarize the quantitative impacts estimated for the TSL for IRL.

TABLE VII.60—SUMMARY OF ANALYTICAL RESULTS FOR IRL: NATIONAL IMPACTS

Category	TSL 1
National FFC Energy Savings quads	
	0.011
NPV of Consumers Benefits 2013$ billion	
3% discount rate	0.25
7% discount rate	0.17
Cumulative Emissions Reduction (Total FFC Emissions)	
CO_2 (million metric tons)	0.77
SO_2 (thousand tons)	0.76
NO_x (thousand tons)	1.1
Hg (tons)	0.0023
CH_4 (thousand tons)	2.7
CH_4 (thousand tons CO_2eq) *	76
N_2O (thousand tons)	0.0088
N_2O (thousand tons CO_2eq) *	2.3
Value of Emissions Reduction (Total FFC Emissions)	
CO_2 *2013$ million* **	7 to 90
NO_X—3% discount rate *2013$ million*	2.2
NO_X—7% discount rate *2013$ million*	1.6

* 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 VII.61—SUMMARY OF ANALYTICAL RESULTS FOR IRL: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1
Manufacturer Impacts	
Change in Industry NPV (*2013$ million)** (Base Case Industry NPV of $145.4)	(52.5)–(56.2)
Change in Industry NPV *(%)**	(36.1)–(38.6)
Consumer Mean LCC Savings * 2013$	
Standard spectrum; >2.5 inch diameter; <125 V	3.09

TABLE VII.61—SUMMARY OF ANALYTICAL RESULTS FOR IRL: MANUFACTURER AND CONSUMER IMPACTS—Continued

Category	TSL 1
Consumer Mean PBP * years	
Standard spectrum; >2.5 inch diameter; <125 V	5.3
Consumers with Net Cost %	0.0
Consumers with Net Benefit %	100.0
Consumers with No Impact %	0.0

* Values in parentheses are negative values.

DOE considered TSL 1, which would save an estimated total of 0.0102 quads of energy, an amount DOE considers significant. TSL 1 has an estimated NPV of consumer benefit of $0.17 billion using a 7-percent discount rate, and $0.25 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 1 are 0.77 million metric tons of CO_2, 1.1 thousand tons of NO_X, 0.76 thousand tons of SO_2, 0.0023 tons of Hg, 2.7 thousand tons of CH_4, and 0.0088 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reductions at TSL 1 ranges from $7 million to $90 million.

At TSL 1, the weighted average LCC savings for the standard spectrum, >2.5 inch diameter, <125 V product class is $3.09. The LCC savings were positive for both representative lamp units in each sector.

At TSL 1, DOE estimates industry would need to invest approximately $72.6 million in conversion costs. At TSL 1, the projected change in INPV ranges from a decrease of $52.5 million to a decrease of $56.2 million. If the larger decrease is realized, TSL 1 could result in a net loss of up to 38.6 percent in INPV to manufacturers of covered IRLs.

At TSL 1, given the size of the investment, DOE believes there is uncertainty as to whether manufacturers would spend the capital required to produce more efficient, longer lifetime products at the volume needed to satisfy the market demand. Manufacturers could instead choose to forego the significant investment and produce exempt products or exit the market entirely. DOE is also aware that to meet higher efficacy levels, manufacturers can choose to produce lamps with a shorter lifetime and did so in response to the July 2012 standards by introducing IRLs with shorter lifetimes. DOE conducted a sensitivity analysis to assess the impacts of manufacturers shortening the lifetime of covered IRLs to meet TSL 1. DOE determined that if manufacturers shorten the lifetime of IRLs, consumers would experience negative LCC savings in both the residential and commercial sectors.

After considering the analysis and weighing the benefits and the burdens, DOE concluded that, at TSL 1 for IRLs, the benefits of energy savings, positive NPV of consumer benefits, positive impacts on consumers (as indicated by positive average LCC savings), emission reductions and the estimated monetary value of the emissions reductions would be outweighed by the potential reduction in industry value and the potential negative costs to consumers in the scenario that manufacturers shortened the lifetime of covered IRLs. Consequently, DOE has concluded that TSL 1 is not economically justified.

Based on the above considerations, DOE is not amending energy conservation standards for IRLs.

VIII. 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 these standards address are as follows:

(1) There is limited relevant consumer information in the lighting market, 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 products are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the product 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 GSFLs and IRLs 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 regulatory action is a ''significant regulatory action'' under Executive Order 12866. DOE presented to OIRA in the OMB for review the draft rule and other documents prepared for this rulemaking, including a regulatory impact analysis (RIA), and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563. (76 FR 3281, Jan. 21, 2011) EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or

marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, OIRA has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For this final rule, DOE has utilized the latest market and technology assessments, product information, and prices available at the time of this analysis and developed shipment projections based on historical data and key market drivers to determine national energy savings and net present value of potential standards. Further, in anticipation of future trends DOE has also considered various alternative scenarios including increases in rare earth phosphor and xenon prices. Therefore, DOE believes that this 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.

For future regulatory efforts regarding this product category, DOE will utilize the latest market and technology assessments, product information, and prices available at the time of the analysis and develop shipment projections based on historical data and key market drivers. Additionally, the agency will restrospectively evaluate the consumer choice model and related shipments trends that project that consumers will switch from purchasing one type of product class to another as a result of the revised energy efficiency standards. DOE's evaluation will verify the assumptions and revise as appropriate the consumer choice model for the next rulemaking iteration.

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, and a final regulatory flexibility analysis (FRFA) for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. 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 reviewed the April 2014 NOPR (79 FR 24068) and this rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

As a result of this review, DOE has prepared a FRFA for GSFLs, but not for IRLs since DOE is not setting amended energy conservation standards for IRLs as part of this rule. As presented and discussed in the following section, the GSFL FRFA describes impacts on GSFL manufacturers and discusses alternatives that could minimize these impacts. A statement of the reasons for establishing the standards in this rule, and the objectives of, and legal basis for these standards, are set forth elsewhere in the preamble and not repeated here. Chapter 13 of this final rule TSD contains more information about the impact of this rulemaking on manufacturers.

1. Description and Estimated Number of Small Entities Regulated

a. Methodology for Estimating the Number of Small Entities

For manufacturers of GSFLs, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121.The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/content/table-small-business-size-standards*. GSFL manufacturing is classified under NAICS code 335110, ''Electric Lamp Bulb and Part Manufacturing.'' The SBA sets a threshold of 1,000 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 GSFLs covered by this rulemaking, DOE conducted a market survey using publicly available information. DOE's research involved industry trade association membership directories (including NEMA), information from previous rulemakings, individual company Web sites, SBA's database, and market research tools (*e.g.,* Hoover's reports). DOE also asked stakeholders and industry representatives if they were aware of any small manufacturers during manufacturer interviews and DOE public meetings. DOE used information from these sources to create a list of companies that potentially manufacture or sell GSFLs and would be impacted by this rulemaking. As necessary, DOE contacted companies to determine whether they met the SBA's definition of a small business manufacturer of GSFLs. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are completely foreign owned and operated.

For GSFLs, DOE initially identified a total of 47 potential companies that sell GSFLs in the United States. After reviewing publicly available information on these potential GSFL manufacturers, DOE determined that 26 were either large manufacturers, manufacturers that were completely foreign owned and operated, or did not sell GSFLs covered by this rulemaking. DOE then contacted the remaining 21 GSFL companies to determine whether they met SBA's definition of a small business and whether they manufactured or sold GSFLs that would be affected by these standards. Based on these efforts, DOE estimated that there are 21 small businesses that either manufacture or sell covered GSFLs in the United States.

b. Manufacturer Participation

DOE contacted all 21 identified GSFL small businesses to invite them to take part in a small business MIA interview. Of the GSFL manufacturers DOE contacted, eight responded to DOE's email and phone communications and 13 did not. DOE was able to reach and discuss potential standards with two of the eight GSFL small business manufacturers that responded. The remaining six declined DOE's request to be interviewed for this rulemaking. DOE also obtained information about small business manufacturers and potential impacts on small businesses while interviewing large manufacturers.

c. GSFL Industry Structure and Nature of Competition

Three major manufacturers supply approximately 90 percent of the GSFL market. None of these three major GSFL manufacturers are small businesses. DOE estimates that the remaining 10 percent of the GSFL market is served by either small businesses or

manufacturers that are completely foreign owned and operated. No small business has more than a three percent market share in the GSFL industry. Small businesses that sell covered GSFLs tend to be companies that outsource the manufacturing to overseas companies who produce the lamps specified by the small businesses. These small businesses provide the specifications for these lamps as well as the testing and certification to comply with any U.S. energy conservation standards.

d. Comparison Between Large and Small Entities

For GSFLs, small businesses differ from large manufacturers in several ways that directly affect the extent to which a company would be impacted by energy conservation standards. The main differences between small and large entities for this rulemaking are that small manufacturers of GSFLs have lower sales volumes and are frequently not the original manufacturers of GSFLs. Therefore, these small businesses would not have any capital conversion costs to comply with amended standards, since the machinery used to produce GSFLs is owned and operated by overseas manufacturers. The small businesses would most likely experience higher per-unit costs for the products if the conversion costs experienced by the overseas manufacturers are passed through to the small businesses, potentially reducing those small business' manufacturer markups and profits.

Small businesses would also have product conversion costs associated with testing and certifying any lamps that would need to be redesigned due to standards. Typically the testing and certification costs are proportional to the number of products offered by a company and not the volume of sales. Some small businesses stated they could offer up to 75 percent of the number of covered products that large manufacturers offer; however, the volume of sales for each single product offered by a small business would be significantly smaller than that of a larger manufacturer. Consequently, the revenue associated with a single product is much smaller for small businesses than for large manufacturers. Therefore, these small businesses could have product conversion costs in the same range as large manufacturers, since product conversion costs scale to number of products offered, even though the total revenue is significantly lower for small businesses compared to large manufacturers.

Lower sales volumes are the biggest disadvantage for most small businesses. A lower-volume business' product conversion costs are spread over fewer units than a larger competitor. Thus, unless the small business can differentiate its product in some way that earns a price premium, the small business experiences a reduction in profit per-unit relative to the large manufacturer. Most small GSFL businesses operate in the same lighting markets as large manufacturers and do not operate in niche GSFL markets. Much of the same manufacturing equipment would need to be purchased by both large manufacturers and small businesses to produce GSFLs at higher efficacy levels. If the small business is not the original lamp manufacturer, the manufacturer that sells to the small business would have to purchase this manufacturing equipment. Therefore, undifferentiated small businesses would face a greater per-unit cost penalty because they must spread the conversion costs over fewer units. While small businesses may not be directly paying these capital conversion costs, they are still responsible for selling certified products made by the original lamp manufacturers. The costs incurred by contracted manufacturers are passed on to small businesses that must maintain profit margins by either increasing product prices or decreasing profitability.

2. Description and Estimate of Compliance Requirements

Small GSFL businesses will be affected differently by the amended energy conservation standards compared to large manufacturers. One of the key differences between large manufacturers and the small businesses identified by DOE for this rulemaking is that small GSFL businesses typically outsource the manufacturing of the lamps they sell to original product manufacturers abroad. This, in addition to the small volume of sales typical of small businesses, results in small GSFL businesses having different types and amounts of conversion costs compared to large manufacturers.

As a result of these standards, small GSFL businesses will incur product conversion costs because products that no longer meet the efficacy levels of these standards will most likely need to be redesigned, retested, and recertified. Since small businesses have significantly less revenue and annual R&D budgets than large manufacturers, the product conversion costs necessary to comply with amended standards represent a significant portion of a small business' annual revenue. However, unlike large manufacturers, small businesses will most likely not incur any capital conversion costs due to amended standards because small businesses usually do not own and operate the machinery used to manufacture the covered GSFLs. The capital conversion costs incurred by original product manufacturers will instead be passed along indirectly to the domestic small businesses.

In the GSFL market, DOE identified 21 small GSFL businesses with covered products affected by this rulemaking. It is unlikely that small GSFL businesses will incur any capital conversion costs because small businesses usually do not own and operate the machinery used to manufacture the covered GSFLs; however, they will likely face significant product conversion costs to cover R&D, certification, and testing of products that need to be redesigned to meet the efficacy levels set in this standard. DOE estimates that approximately 61 percent of the covered products offered by small GSFL manufacturers meet the efficacy levels established by this rule, TSL 4. As a result, an average of approximately 39 percent of products would need to be redesigned to meet these efficacy levels, resulting in small GSFL businesses incurring more than $1.08 million on average in product conversion costs or nearly five times as much as typical annual GSFL R&D expenses. GSFL sales account for approximately 25 percent of a typical small business' annual revenue, so redesigning up to 39 percent of those offerings could have a significant impact on their business. Redesigning a large majority of product offerings that represent a significant revenue stream will be more difficult for small businesses, compared to large businesses, as they have less R&D and revenue.

TABLE VIII.1—ESTIMATED GSFL PRODUCT CONVERSION COSTS AS A PERCENTAGE OF ANNUAL GSFL R&D EXPENSE

	Product conversion cost as a percentage of annual R&D expense (percent)	Total conversion cost as a percentage of annual revenue (percent)
Typical Large Manufacturer	3	1
Typical Small Manufacturer	471	21

Small businesses in the GSFL industry expressed concern that possible manufacturing downtime, discontinuation of product lines, and high direct and indirect conversion costs resulting from amended GSFL energy conservation standards could have a significant impact on their revenue and could affect domestic employment decisions. Domestic employment impacts could be especially prevalent, since GSFL revenue accounts for approximately 25 percent of a typical small business' revenue. Domestic employment impacts would be seen in small business' sales forces and warehouse staff that could be potentially downsized as a result of the GSFL standards established in this rule.

3. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the final rule established.

4. Significant Alternatives to the Rule

The discussion in the previous section analyzes impacts on GSFL small businesses that would result from DOE's final rule. In addition to the other TSLs being considered, the final rule TSD includes a RIA. For GSFLs, the RIA discusses the following policy alternatives: (1) No change in standard; (2) consumer rebates; (3) consumer tax credits; (4) manufacturer tax credits; (5) voluntary energy efficiency targets; and (6) bulk government purchases. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the adopted standards, DOE did not consider these alternatives further because they are expected to result in energy savings that are much smaller than those that will be achieved by the adopted standard levels in this final rule (for 4-foot MBP the energy savings ranged from 51 percent to 98 percent less primary energy savings; for 4-foot T5 MiniBP SO the energy savings ranged from 84 percent to 98 percent less primary energy savings). In reviewing alternatives, DOE also examined energy conservation standards set at lower efficacy levels. DOE notes that it did not consider an alternative compliance date for the entire industry affected by this rulemaking. DOE is constrained by the three-year lead time required by statute (42 U.S.C. 6295(i)(5)). However, certain compliance date alternatives may be available to individual manufacturers, as discussed below. Accordingly, DOE is declining to adopt any of these alternatives and is adopting the standards set forth in this rulemaking. See chapter 18 of the final rule TSD for further detail on the policy alternatives that DOE considered.

Additional compliance flexibilities may be available through other means. For example, individual manufacturers may petition for a waiver of the applicable test procedure. Further, EPCA provides that a manufacturer whose annual gross revenue from all of its operations does not exceed $8,000,000 may apply for an exemption from all or part of an energy conservation standard for a period not longer than 24 months after the effective date of a final rule establishing the standard. Additionally, Section 504 of the Department of Energy Organization Act, 42 U.S.C. 7194, provides authority for the Secretary to adjust a rule issued under EPCA in order to prevent ''special hardship, inequity, or unfair distribution of burdens'' that may be imposed on that manufacturer as a result of such rule. Manufacturers should refer to 10 CFR part 430, subpart E, and part 1003 for additional details.

C. Review Under the Paperwork Reduction Act

Manufacturers of GSFLs must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for GSFLs, 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 GSFLs. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)-(5). The rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this 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. EPCA governs and prescribes federal preemption of state regulations as to energy conservation for the products that are the subject of this 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) 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; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). 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, the final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each federal agency to assess the effects of federal regulatory actions on state, local, and Tribal governments and the private sector. Pub. L. 104–4, sec. 201 (codified at 2 U.S.C. 1531). For an amended regulatory action likely to result in a rule that may cause the expenditure by state, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a federal agency to develop an effective process to permit timely input by elected officers of state, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel*.

DOE has concluded that the final rule would likely require expenditures of $100 million or more on the private sector. Such expenditures may include: (1) Investment in research and development and in capital expenditures by GSFL 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 efficacy GSFLs, 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 final 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 this final rule and the ''Regulatory Impact Analysis'' section of the final rule TSD 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 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(i)(4)–(5), this rule establishes energy conservation standards for GSFLs 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 final rule TSD for this rule.

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

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation 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 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 rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that 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 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 concluded that this regulatory action, which sets forth energy conservation standards for GSFLs, is not a significant energy action because the amended 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 the final 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*.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is a ''major rule'' as defined by 5 U.S.C. 804(2).

IX. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final 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 December 30, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends 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. In § 430.2, add the definitions for ''700 series fluorescent lamp'', ''Designed and marketed'', ''Fluorescent lamp designed for use in reprographic equipment,'' ''Impact-resistant fluorescent lamp,'' ''Lamps primarily designed to produce radiation in the ultraviolet region of the spectrum,'' ''Reflectorized or aperture lamp,'' in alphabetical order, and revise the definition for ''Fluorescent lamp'' to read as follows:

§ 430.2 Definitions.

* * * * *

700 series fluorescent lamp means a fluorescent lamp with a color rendering index (measured according to the test procedures outlined in Appendix R to subpart B of this part) that is in the range (inclusive) of 70 to 79.

* * * * *

Designed and marketed means that the intended application of the lamp is clearly stated in all publicly available documents (*e.g.,* product literature, catalogs, and packaging labels). This definition is applicable to terms related to the following covered lighting products: Fluorescent lamp ballasts; fluorescent lamps; general service fluorescent lamps; general service incandescent lamps; general service lamps; incandescent lamps; incandescent reflector lamps; medium base compact fluorescent lamps; and specialty application mercury vapor lamp ballasts.

* * * * *

Fluorescent lamp means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

(1) Any straight-shaped lamp (commonly referred to as 4-foot medium bipin lamps) with medium bipin bases of nominal overall length of 48 inches and rated wattage of 25 or more;

(2) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bipin bases of nominal overall length between 22 and 25 inches and rated wattage of 25 or more;

(3) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches;

(4) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 49 or more;

(5) Any straight-shaped lamp (commonly referred to as 4-foot miniature bipin standard output lamps) with miniature bipin bases of nominal overall length between 45 and 48 inches and rated wattage of 25 or more; and

(6) Any straight-shaped lamp (commonly referred to 4-foot miniature bipin high output lamps) with miniature bipin bases of nominal overall length between 45 and 48 inches and rated wattage of 44 or more.

Fluorescent lamp designed for use in reprographic equipment means a fluorescent lamp intended for use in equipment used to reproduce, reprint, or copy graphic material.

* * * * *

Impact-resistant fluorescent lamp means a lamp that:

(1) Has a coating or equivalent technology that is compliant with NSF/ANSI 51 (incorporated by reference; see § 430.3) and is designed to contain the glass if the glass envelope of the lamp is broken; and

(2) Is designated and marketed for the intended application, with:

(i) The designation on the lamp packaging; and

(ii) Marketing materials that identify the lamp as being impact-resistant, shatter-resistant, shatter-proof, or shatter-protected.

* * * * *

Lamps primarily designed to produce radiation in the ultraviolet region of the spectrum means fluorescent lamps that primarily emit light in the portion of the electromagnetic spectrum where light has a wavelength between 10 and 400 nanometers.

* * * * *

Reflectorized or aperture lamp means a fluorescent lamp that contains an inner reflective coating on the bulb to direct light.

* * * * *

■ 3. Section 430.32 is amended by revising paragraph (n) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(n) *General service fluorescent lamps and incandescent reflector lamps.* (1) Except as provided in paragraphs (n)(2), (n)(3), and (n)(4) of this section, each of the following general service fluorescent lamps manufactured after the effective dates specified in the table shall meet or exceed the following lamp efficacy and CRI standards:

Lamp type	Nominal lamp wattage	Minimum CRI	Minimum average lamp efficacy *lm/W*	Effective date
4-foot medium bipin	>35 W	69	75.0	Nov. 1, 1995.
	≤35 W	45	75.0	Nov. 1, 1995.
2-foot U-shaped	>35 W	69	68.0	Nov. 1, 1995.
	≤ 35 W	45	64.0	Nov. 1, 1995.
8-foot slimline	>65 W	69	80.0	May 1, 1994.
	≤65 W	45	80.0	May 1, 1994.
8-foot high output	>100 W	69	80.0	May 1, 1994.
	≤100 W	45	80.0	May 1, 1994.

(2) The standards described in paragraph (n)(1) of this section do not apply to:

(i) Any 4-foot medium bipin lamp or 2-foot U-shaped lamp with a rated wattage less than 28 watts;

(ii) Any 8-foot high output lamp not defined in ANSI C78.81 (incorporated by reference; see § 430.3) or related supplements, or not 0.800 nominal amperes; or

(iii) Any 8-foot slimline lamp not defined in ANSI C78.3 (incorporated by reference; see § 430.3).

(3) Except as provided in paragraph (n)(4) of this section, each of the following general service fluorescent lamps manufactured after July 14, 2012, shall meet or exceed the following lamp efficacy standards shown in the table:

Lamp type	Correlated color temperature	Minimum average lamp efficacy lm/W
4-foot medium bipin	≤4,500K	89
	>4,500K and ≤7,000K	88
2-foot U-shaped	≤4,500K	84
	>4,500K and ≤7,000K	81
8-foot slimline	≤4,500K	97
	>4,500K and ≤7,000K	93
8-foot high output	≤4,500K	92
	>4,500K and ≤7,000K	88
4-foot miniature bipin standard output	≤4,500K	86
	>4,500K and ≤7,000K	81
4-foot miniature bipin high output	≤4,500K	76
	>4,500K and ≤7,000K	72

(4) Each of the following general service fluorescent lamps manufactured on or after January 26, 2018, shall meet or exceed the following lamp efficacy standards shown in the table:

Lamp type	Correlated color temperature	Minimum average lamp efficacy lm/W
4-foot medium bipin	≤4,500K	92.4
	>4,500K and ≤7,000K	88.7
2-foot U-shaped	≤4,500K	85.0
	>4,500K and ≤7,000K	83.3
8-foot slimline	≤4,500K	97.0
	>4,500K and ≤7,000K	93.0
8-foot high output	≤4,500K	92.0
	>4,500K and ≤7,000K	88.0
4-foot miniature bipin standard output	≤4,500K	95.0
	>4,500K and ≤7,000K	89.3
4-foot miniature bipin high output	≤4,500K	82.7
	>4,500K and ≤7,000K	76.9

(5) Except as provided in paragraph (n)(6) of this section, each of the following incandescent reflector lamps manufactured after November 1, 1995, shall meet or exceed the lamp efficacy standards shown in the table:

Nominal lamp wattage	Minimum average lamp efficacy lm/W
40–50	10.5
51–66	11.0
67–85	12.5
86–115	14.0
116–155	14.5
156–205	15.0

(6) Each of the following incandescent reflector lamps manufactured after July 14, 2012, shall meet or exceed the lamp efficacy standards shown in the table:

Rated lamp wattage	Lamp spectrum	Lamp diameter inches	Rated voltage	Minimum average lamp efficacy lm/W
40–205	Standard Spectrum	>2.5	≥125 V	$6.8*P^{0.27}$
			<125 V	$5.9*P^{0.27}$
		≤2.5	≥125 V	$5.7*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
40–205	Modified Spectrum	>2.5	≥125 V	$5.8*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
		≤2.5	≥125 V	$4.9*P^{0.27}$
			<125 V	$4.2*P^{0.27}$

Note 1: P is equal to the rated lamp wattage, in watts.
Note 2: Standard Spectrum means any incandescent reflector lamp that does not meet the definition of modified spectrum in 430.2.

(7)(i)(A) Subject to the exclusions in paragraph (n)(7)(ii) of this section, the standards specified in this section shall apply to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008.

(B) Subject to the exclusions in paragraph (n)(7)(ii) of this section, the standards specified in this section shall apply to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after June 15, 2008.

(ii) The standards specified in this section shall not apply to the following types of incandescent reflector lamps:

(A) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps;

(B) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps; or

(C) R20 incandescent reflector lamps rated 45 watts or less.

* * * * *

Appendix

[The following letter from the Department of Justice will not appear in the Code of Federal Regulations.]

U.S. Department of Justice, Antitrust Division, William J. Baer, Acting Assistant Attorney General, RFK Main Justice Building, 950 Pennsylvania Ave. NW., Washington, DC 20530–0001, (202) 514–2401/(202) 616–2645 (Fax)

August 25, 2014

Eric J. Fygi, Deputy General Counsel, Department of Energy, Washington, DC 20585

Dear Deputy General Counsel Fygi: I am responding to your June 11, 2014 letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for general service fluorescent lamps and certain incandescent reflector lamps. Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR 0.40(g).

In conducting its analysis the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing certain manufacturers at an unjustified competitive disadvantage, or by inducing avoidable inefficiencies in production or distribution of particular products. A lessening of competition could result in higher prices to manufacturers and consumers.

We have reviewed the proposed standards contained in the Notice of Proposed

Rulemaking (79 FR 24068, April 29, 2014) (NOPR). We have also reviewed supplementary information submitted to the Attorney General by the Department of Energy. Based on this review, our conclusion is that the proposed energy conservation standards for general service fluorescent lamps and certain incandescent reflector lamps are unlikely to have a significant adverse impact on competition.

Sincerely,

William J. Baer

Enclosure

[FR Doc. 2015–00317 Filed 1–22–15; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL REGISTER

Vol. 80 Monday,

No. 16 January 26, 2015

Part III

Environmental Protection Agency

40 CFR Part 192

Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 192

[EPA–HQ–OAR–2012–0788; FRL–9909–20–OAR]

RIN 2060–AP43

Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to add new health and environmental protection standards to regulations promulgated under the Uranium Mill Tailings Radiation Control Act of 1978 (''UMTRCA'' or ''the Act''). The proposed standards will regulate byproduct materials produced by uranium in-situ recovery (ISR), including both surface and subsurface standards, with a primary focus on groundwater protection, restoration and stability. ISR has a greater potential to directly affect groundwater than does conventional milling. Therefore, by explicitly addressing the most significant hazards represented by ISR activities, these proposed standards are intended to address the shift toward ISR as the dominant form of uranium recovery that has occurred since the standards for uranium and thorium mill tailings were initially promulgated in 1983. The general standards proposed today, when final, will be implemented by the Nuclear Regulatory Commission (NRC). This action also proposes to amend specific provisions in the current Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings rule to address a ruling of the Tenth Circuit Court of Appeals, to update a cross-reference to another environmental standard and to correct certain technical and typographical errors that have been identified since the 1983 promulgation.

DATES: Comments must be received on or before April 27, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0788, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* Air and Radiation Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation; special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0788. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic 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.*

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FOR FURTHER INFORMATION CONTACT: Ingrid Rosencrantz, Office of Radiation and Indoor Air, Radiation Protection Division, Mailcode 6608T, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–343–9286; fax number: 202–343–2304; email address: *Rosencrantz.ingrid@epa.gov.*

Executive Summary: The Environmental Protection Agency (EPA) is proposing to add new health and environmental protection standards to regulations promulgated under the Uranium Mill Tailings Radiation Control Act of 1978 (''UMTRCA'' or ''the Act''). The proposed standards will regulate byproduct materials produced by uranium in-situ recovery (ISR), including both surface and subsurface standards, with a primary focus on groundwater protection, restoration and stability. ISR has a greater potential to directly affect groundwater than does conventional milling. Therefore, by explicitly addressing the most significant hazards represented by ISR activities, these proposed standards are intended to address the shift toward ISR as the dominant form of uranium recovery that has occurred since the standards for uranium and thorium mill tailings were initially promulgated in 1983. The legal authority for this action is in Section 275 of the Atomic Energy Act (AEA) of 1954, as amended by Section 206 of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978. Health and environmental protection standards established by EPA under UMTRCA are implemented by NRC. See 42 U.S.C. 2022(b) and (d).

This action also proposes to amend specific provisions in the current Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings rule to address a ruling of the Tenth Circuit Court of Appeals, to update a cross-reference to another environmental standard, and to correct certain technical and typographical errors that have been identified since the 1983 promulgation.

The major provisions of today's proposal include the following:

- We are proposing to add an additional subpart within 40 CFR part 192 to explicitly address groundwater protection at uranium ISR operations. A new subpart F is being proposed that would set standards that would apply to uranium ISR facilities only. The overall purpose of this subpart is to address the most significant hazards represented by

ISR activities. This subpart adds the following:

1. A section on applicability—§ 192.50 Applicability—that specifies the subpart will apply to the management of uranium byproduct materials during and following the processing of uranium ores using ISR methods.

2. A section containing definitions—§ 192.51 Definitions and cross-references.

3. A section—§ 192.52 Standards—in which EPA proposes to specify the minimum 13 constituents for which groundwater protection standards must be met. The list includes the following: Arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, nitrate (as N), molybdenum, combined radium-226 and radium-228, uranium (total), and gross alpha-particle activity (excluding radon and uranium).

4. A section discussing monitoring requirements—§ 192.53 Monitoring programs—that details the specific requirements of monitoring programs to be conducted during the preoperational, operational, restoration, stability and long-term stability phases.

5. A section establishing requirements for corrective actions—§ 192.54 Corrective action program.

6. A section detailing the effective date of the new subpart—§ 192.55—Effective date.

• As noted above, we are also proposing to amend certain provisions within the existing 40 CFR part 192 to address a ruling of the Tenth Circuit Court of Appeals, delete reference to an outdated standard and correct minor technical and typographical errors.

The costs and benefits of this rulemaking are described briefly in the tables presented below. Costs quantified in Table 2 address costs of the rule that reflect appropriate characterization of the background data, and then ensuring that: (1) The post-operational groundwater is restored to that of the initial groundwater conditions and (2) the post-restoration groundwater conditions will remain stable.

The proposed rule requires affected facilities to monitor groundwater for a longer period of time compared to current practice (estimated to be 9.5 additional years if geochemical modeling indicates that conditions will remain stable, and estimated 32.5 additional years if long-term stability monitoring continues for 30 years. The major costs associated with the proposed rule are the costs of these monitoring activities. National total annualized incremental costs of the proposed rule, based on likely implementation represented by the average cost of 30-year long-term stability monitoring with geochemical modeling to shorten the duration, is $13.5 million (in 2011 dollars), as shown in Table 2 below. EPA also examined potential impacts on small businesses that own and operate ISR operations. Using existing owner companies as examples of the firms that may own ISR operations subject to the proposed rule, EPA found that the estimated costs of complying with the proposed rule are 0.6% to 1.7% of estimated 2015 revenues for three small firms that own ISR operations. Because costs do not exceed 2% of estimated sales, and because EPA projects that fewer than 10 small businesses will be affected by the rule at any given time, EPA concluded that the proposed rule would not result in significant impacts for a substantial number of small entities. For information on how EPA estimated these costs, see Section 3 and Appendix D of the Economic Analysis.

EPA conducted a qualitative assessment of the benefits of the proposed rule. EPA recognizes that groundwater is a valuable resource, and is becoming more valuable as groundwater use increases. While the aquifers in the vicinity of ISR operations are currently providing little extractive value (because of their locations and, for some areas, the fact that groundwater quality is low), in future years these resources may have increased value. A recent analysis (Poe et al, 2001) estimated the value to today's households of protecting groundwater for future use ranged from $531 to $736 per household. For this reason, EPA believes it is necessary to take a longer view of groundwater protection than taken in the past. Currently, monitoring groundwater conditions after restoration is typically conducted for a short period of time (EPA assumes 6 months for cost estimate purposes), which may not be long enough to detect instability in groundwater conditions. EPA's proposed rule requires a 30 year long-term stability monitoring period, which may be shortened if geochemical modeling demonstrates that conditions in the restored wellfield will remain stable over time.

The proposed rule will reduce the risk of undetected excursions of pollutants into adjacent aquifers. This in turn will reduce the human health risks that could result from exposures to radionuclides in well water used for drinking or agriculture in areas located down-gradient from an ISR. Because radionuclides are human carcinogens, the main health risk averted would be cancer. There is a benefit (estimated to be at least $8 million per premature death avoided) of reducing cancer deaths, but because we were unable to estimate how many cancer deaths would be averted, or when they would occur, EPA is unable to quantify this benefit.

In addition to avoiding human health impacts, the proposed rule has the potential to detect excursions sooner and thus enable a faster remedial response. Because plumes detected during long-term stability monitoring would be smaller, costs of remediation would be potentially much lower. For a model mine unit, EPA estimated the averted remediation costs to range from $8.8 million to more than $500 million. EPA is unable to extrapolate this estimate to a national value, because we do not have a basis for estimating which, if any, wellfields would experience an undetected contaminant plume in the absence of the proposed rule.

TABLE 1—CHARACTERIZATION OF THE COSTS AND BENEFITS OF 40 CFR PART 192, SUBPART F

Costs	Benefits
Annualized monitoring costs ranging from $12.5 to $14.1 million.	Protection of groundwater quality.
Maintenance of financial assurance for up to 30 additional years per facility.	Possible protection of surface water quality.
	Potentially reduced risk of exposure of human or ecological receptors to radiological pollutants.
	Potentially reduced human health impacts, including cancer.
	Reduced remediation cost savings ($8.8 million to $560 million for CMU).

TABLE 2—SUMMARY OF THE COSTS AND BENEFITS OF 40 CFR PART 192, SUBPART F WITH OPTIONS

[millions of 2011 dollars]

Requirement	Capital cost	Annual cost	Net benefit
30 years with geochemical modeling	[a] $25.2	$13.5	Not Quantified.
30 Years, no shortening	19.3	15.1	

[a] Capital costs are higher for the geochemical modeling option because more wells would be required.

SUPPLEMENTARY INFORMATION:

Outline. The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
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2. Heap Leach
3. In-Situ Recovery (ISR)
C. What is the statutory authority for the proposed amendments?
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E. Why does EPA believe new standards are necessary?
1. What are the environmental impacts of uranium ISR?
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3. What came out of the Advisory from EPA's Science Advisory Board?
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F. What other EPA statutes and regulations are relevant?
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2. Clean Water Act (CWA)
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1. Proposal of New Subpart—Subpart F—Public Health, Safety and Environmental Protection Standards for Byproduct Materials Produced by Uranium In-situ Recovery
2. Addition of New Section on Applicability—§ 192.50 Applicability
3. Addition of New Section Containing Definitions—§ 192.51 Definitions and Cross-References
4. Addition of New Section Detailing Standards—§ 192.52 Standards
5. Addition of New Section Discussing Monitoring Requirements—§ 192.53 Monitoring Programs
6. Addition of New Section Discussing Requirements for Corrective Actions—§ 192.54 Corrective Action Program
7. Addition of New Section Detailing the Effective Date of the New Subpart—§ 192.55—Effective Date
B. Other Proposed Amendments
1. Revision to Subpart C—Implementation
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A. How does today's proposal relate to existing 40 CFR part 192?
B. What groundwater protection standards are we proposing for ISR facilities?
1. Generally Applicable Groundwater Standards
2. Alternate Concentration Limits (ACLs)
C. Adequate Characterization of Groundwater Prior to Uranium Recovery
1. Establishing Restoration Goals
D. Excursions
E. Long-Term Stability Monitoring
1. Thirty-Year Long-Term Stability Monitoring Period, With Provisions for Shortening That Time Period
2. What other options did EPA consider for the long-term stability monitoring period?
a. Required Thirty-Year Long-Term Stability Monitoring Period
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a. What do we propose for determining stability?
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E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
I. National Technology Transfer Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this action apply to me?

The regulated categories and entities potentially affected by the proposed standards include:

Category	NAICS code [1]	Examples of regulated entities
Industry:		
Uranium Ores Mining and/or Beneficiating.	212291	Facilities that extract or concentrate uranium from any ore processed primarily for its source material content.
Leaching of Uranium, Radium or Vanadium Ores.	212291	Facilities that extract or concentrate uranium from any ore processed primarily for its source material content.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed action.

B. What should I consider as I prepare my comments to EPA?

1. *Submitting CBI.* Do not submit CBI information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information contained on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

Make sure to submit your comments by the comment period deadline identified.

C. When would a public hearing occur?

If anyone contacts the EPA requesting to speak at a public hearing concerning this proposed rule by February 25, 2015, we will hold a public hearing. If you are interested in attending the public hearing, contact Mr. Anthony Nesky at (202) 343–9597 to verify that a hearing will be held. If a public hearing is held, we will announce the date, time and venue on our Web site at *http://www.epa.gov/radiation/tenorm/40CFR192.html.*

D. What documents are referenced in today's proposal?

We refer to a number of documents that provide supporting information for our uranium and thorium mill tailings standards. All documents relied upon by EPA in regulatory decision making may be found in our docket (EPA–HQ–OAR–2012–0788) accessible via *http://www.regulations.gov/.* Other documents, *e.g.,* statutes, regulations, and proposed rules, are readily available from public sources. The EPA documents listed below are referenced most frequently in today's proposal.

EPA 402/D–14–001 ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery (ISL/ISR) Sites,'' Environmental Protection Agency, 2014.

EPA 402/R–14–003 ''Economic Analysis: Proposed Revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings Rule (40 CFR part 192),'' Environmental Protection Agency, 2014.

EPA 530/R–09–007 ''Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities—Unified Guidance,'' Environmental Protection Agency, 2009.

E. Acronyms and Abbreviations

The following acronyms and abbreviations are used in this document:

ACL—alternate concentration limit
AEA—Atomic Energy Act
BID—Background information document
CAA—Clean Air Act
CWA—Clean Water Act
CBI—Confidential Business Information
CFR—Code of Federal Regulations
DOE—U.S. Department of Energy
EIA—economic impact analysis
EO—Executive Order
EPA—U.S. Environmental Protection Agency
FR—Federal Register
ISR—in-situ recovery, also known as in-situ leaching (ISL)
l—liter
MCLs—Maximum Contaminant Levels
mg—milligram
MOU—Memoranda of Understanding
N—nitrate
NRC—U.S. Nuclear Regulatory Commission
NTTAA—National Technology Transfer and Advancement Act
OMB—Office of Management and Budget
RAC—Radiation Advisory Committee
RCRA—Resource Conservation and Recovery Act
RFA—Regulatory Flexibility Act
SAB—Science Advisory Board
SDWA—Safe Drinking Water Act
UIC—underground injection control
U.S.—United States
USD—United States dollar
UMRA—Unfunded Mandates Reform Act of 1995
UMTRCA—Uranium Mill Tailings Radiation Control Act of 1978
U.S.C.—United States Code
USDW—underground source of drinking water
WL—Working Level

F. Definitions

The following terms are used in this document:

Terminology	Definition
Adjacent Aquifer	An aquifer or portion of an aquifer that shares a border or end point with the exempted aquifer or the exempted portion of an aquifer.
Alternate Concentration Limit (ACL).	Concentration limit approved by the regulatory agency for a groundwater constituent that has not been restored to its restoration goal after best practicable restoration activities have been completed following the process prescribed in 40 CFR 192.52(c)(2) thru 192.52(c)(5).
Aquifer	A geological ''formation,'' group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring. See 40 CFR 144.3.
Aquitard	A confining bed that retards but does not prevent the flow of water to or from an adjacent aquifer.
Background	The condition of groundwater, including the radiological and non-radiological constituent concentrations, in the exempted aquifer, adjacent aquifers, and in both overlying and underlying aquifers, prior to the beginning of ISR operations. The background groundwater constituent concentrations in the production zone prior to the beginning of ISR operations is commonly referred to by the industry and regulatory bodies as the ''baseline.''
Beneficiation	The initial attempt at liberating and concentrating a valuable mineral from extracted ore. This is typically performed by employing various crushing, grinding, and froth flotation techniques.
Byproduct Material	See ''Uranium Byproduct Material.''
Constituent	A detectable component within the groundwater.
Exceedance	An exceedance has occurred when, during stability or long-term stability monitoring, a groundwater protection standard is exceeded at any point of compliance well.

Terminology	Definition
Excursion	The movement of fluids containing uranium byproduct material from an ISR production zone into surrounding groundwater. An excursion is considered to have occurred when, during operational or restoration phase monitoring, any two indicator parameters (*e.g.,* chloride, conductivity, total alkalinity) exceed their respective upper control limits in any overlying, underlying, or perimeter monitoring well. Horizontal excursions refer to the lateral movement of the water, while vertical excursions indicate movement of water through aquitards above or below the production zone aquifer.
Excursion Monitoring Well	Wells located around the perimeter of the production zone (horizontal excursion wells) and in overlying and underlying aquifers (vertical excursion wells), which are used to detect any excursions from the production zone. Excursion monitoring wells can serve as the ''point(s) of compliance'' during all phases of ISR.
Exempted Aquifer	An ''aquifer,'' or its portion, that meets the criteria in the definition of ''underground source of drinking water'' in 40 CFR 144.3, but which has been exempted according to the procedures in 40 CFR 144.7. See 40 CFR 144.3.
Extraction Well	Well used to extract uranium enriched solutions from the ore-bearing aquifer; also known as a ''Production Well.'' Extraction and injection wells may be converted from one use to the other.
Facility	See ''Uranium Recovery Facility.''
Groundwater	Water below the land surface in a zone of saturation. See 40 CFR 144.3.
Indicator Parameter	A constituent, such as chloride, conductivity, or total alkalinity, whose ''upper control limit'' is used to identify an excursion. Indicator parameters are not contaminants, but relate to geochemical conditions in groundwater.
Injection Well	A well into which fluids are being injected. See 40 CFR 144.3.
In-Situ Recovery (ISR)	A method of extraction by which uranium is leached from underground ore bodies by the introduction of a solvent solution, called a lixiviant, through injection wells drilled into the ore body. The process does not require the extraction of ore from the ground. The lixiviant is injected, passes through the ore body, mobilizes the uranium, and the uranium-bearing solution is pumped to the surface from extraction wells. The pregnant leach solution is processed to extract the uranium.
Ion Exchange	The process in which ions are exchanged between a solution and an insoluble solid.
Listed Constituent	One of the thirteen groundwater constituents specified in Table 1 to subpart F of part 192.
Lixiviant	A liquid medium used to recover uranium from underground ore bodies through in-situ recovery. This liquid medium typically contains native groundwater and an added oxidant, such as oxygen and/or hydrogen peroxide, as well as sodium carbonate/bicarbonate or carbon dioxide. The lixiviant is introduced through injection wells into the ore body to mobilize the uranium. The resulting solution is then pumped via extraction wells to the surface, where the uranium is recovered from the solution for further processing, after which the lixiviant may be re-injected.
Long-Term Stability Phase	The period after the groundwater protection standards have been met, as determined by the regulatory agency.
Maximum Constituent Concentration.	The maximum permissible level of a constituent in groundwater, as specified in Table 1 to subpart A of part 192.
Maximum Contaminant Level (MCL).	The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. See 40 CFR 141.2.
Mobilization	Increasing the migration of constituents in groundwater by various chemical treatments.
Monitoring Wells	Wells used to obtain groundwater levels and water samples for the purpose of determining the hydrologic regime and the amounts, types, and distribution of constituents in the groundwater. Wells are located in the production zone, around the perimeter of the production zone (horizontal excursion monitoring wells), and in overlying and underlying aquifers (vertical excursion monitoring wells).
Operational Phase	The time period during which uranium extraction by in-situ recovery occurs. Operations begin when injection of lixiviant starts; operations end when the operator permanently ceases injection of lixiviant and recovery of uranium-bearing solution.
Ore	The naturally occurring material from which a mineral or minerals of value (*e.g.,* uranium) can be extracted.
Overlying Aquifer	An aquifer that is immediately vertically shallower than (*i.e.,* directly above) the production zone aquifer.
Point(s) of Compliance	Site-specific location(s) where groundwater protection standards must be met. During all phases of ISR, excursion monitoring wells can serve as the points of compliance; during the restoration, stability and long-term stability phases, points of compliance may also include monitoring, injection and extraction wells in the production zone, as determined by the regulatory agency.
Point(s) of Exposure	Intersection of a vertical plane with the boundary of the exempted aquifer.
Precipitate	To separate a substance (such as uranium) out of a solution as a solid.
Preoperational Monitoring	Measurement of groundwater conditions in the production zone, and in the groundwater up and down gradient from the production zone, as well as in overlying and underlying aquifers, prior to the operational phase.
Production Zone	The portion of the aquifer in which ISR activities occur. The production zone lies within the wellfield.
Regulatory Agency	The Nuclear Regulatory Commission (NRC) or an Agreement State.
Restoration (Act of)	The process of returning groundwater quality to preoperational conditions for the purpose of achieving restoration goal values for identified constituents.
Restoration Goal	A concentration limit for an identified constituent in groundwater after restoration has occurred. The limit is obtained from the most protective regulatory standards in 40 CFR 141.62, 141.66, 141.80, 143.3, 264.94, and Table 1 to subpart A of this part, and from preoperational background levels in the wellfield, whichever is higher.
Restoration Phase	The period immediately after lixiviant injection permanently ceases, during which restoration activities occur.
Site	The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity. See 40 CFR 144.3.
Stability Phase	The period after the restoration phase when groundwater protection standards are met and monitored to test for temporal stability.
Solubilize	To make a substance (such as uranium) soluble or more soluble.
Underground Source of Drinking Water (USDW).	An aquifer or its portion: (a)(1) Which supplies any public water system; or (2) Which contains a sufficient quantity of groundwater to supply a public water system; and (i) Currently supplies drinking water for human consumption; or (ii) Contains fewer than 10,000 mg/l total dissolved solids; and (b) Which is not an exempted aquifer. See 40 CFR 144.3.
Underlying Aquifer	An aquifer that is immediately vertically deeper (*i.e.,* directly below) than the production zone aquifer.

Terminology	Definition
Upper Control Limit (UCL) ...	Preoperational concentrations of indicator parameters in horizontal and vertical excursion monitoring wells, as determined by the regulatory agency and contained in the license.
Uranium Byproduct Material	Waste produced by the extraction or concentration of uranium from any ore processed primarily for its source material content. Ore bodies depleted by uranium ISR operations and which remain underground do not constitute ''uranium byproduct material.''
Uranium Recovery Facility ...	A facility licensed to process uranium ores for the purpose of recovering uranium and to manage uranium byproduct materials that result from processing of ores. Common names for these facilities include, but are not limited to, the following: a conventional uranium mill, an in-situ recovery (or leach) facility, and a heap leach facility or pile.
Wellfield	The area of an ISR operation that encompasses the array of injection, extraction, and monitoring wells and interconnected piping employed in the uranium in-situ recovery process. The area of the wellfield exceeds that of the production zone.

II. Background Information

A. What is the scope of this action?

In 1983, EPA originally promulgated regulations at 40 CFR part 192, Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings, in response to the statutory requirements of the Atomic Energy Act of 1954, as amended by the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). These standards have been amended several times, most recently in 1995, with the addition of standards to correct and prevent contamination of groundwater beneath and in the vicinity of inactive uranium processing sites.[1] [2] Pursuant to UMTRCA, our standards have been implemented by the Department of Energy (DOE) at inactive uranium milling sites and nearby contaminated ''vicinity properties'' managing residual radioactive material and by the Nuclear Regulatory Commission (NRC) or NRC Agreement States at active sites managing byproduct material.[3] [4]

Today's proposal is limited to the following changes. We are proposing to add an additional subpart within 40 CFR part 192 to explicitly address groundwater protection at uranium ISR operations. We are also proposing to amend certain provisions within the existing 40 CFR part 192 to address a ruling of the Tenth Circuit Court of Appeals, delete reference to an outdated standard and correct minor technical and typographical errors. We request public comment only on these proposed standards and amendments. We are not requesting, and will not respond to, public comments on any other 40 CFR part 192 provisions since they are beyond the scope of today's proposal.

B. Uranium Extraction

The major deposits of uranium ores in the United States are located in the Colorado Plateau, the Wyoming Basin, the Texas Coastal Plain, and Nebraska. Recovery and processing of these ores have historically occurred by one of three methods: (1) Conventional mining and milling operations; (2) heap leach operations; and (3) in-situ (*i.e.,* in place) recovery. Below we present a brief explanation of these uranium recovery methods.

1. Conventional Mining and Milling

Conventional mining and milling is one of the primary recovery methods currently used to extract uranium from uranium-bearing ore in much of the world and was formerly the predominant means of obtaining uranium in the United States. ''Remoteness from populated areas'' and ''isolation of contaminants from groundwater'' are key considerations in selecting mill locations under current siting criteria found in NRC regulations.[5] Only one conventional mill in the United States is currently operating; all others are in standby status, in decommissioning (closure) or have already been decommissioned.

Conventional uranium mines are either open-pit operations, where large volumes of uranium bearing material are excavated, or underground mines, where the uranium-bearing ore is extracted via mined openings into the subsurface. The extracted ore is then moved to the milling operation where the uranium is extracted by chemical treatments of the ore. The ores are crushed mechanically and then leached at the milling site. In most cases, sulfuric acid is the leaching agent, but alkaline solutions can also be used to leach the uranium, generally extracting 90 to 95 percent of the uranium from the crushed ore.

The mill then processes the uranium from the solution by solvent extraction using organic chemicals, or by an ion exchange process using resins designed to extract the uranium from the leaching solutions used to remove uranium from the crushed ore, then further extracts, precipitates, and finally dries the recovered uranium to produce a uranium oxide material, called ''yellowcake'' because of its yellowish color.[6] Finally, the yellowcake is packaged in special 55-gallon drums and transported to uranium conversion, enrichment and fuel fabrication facilities to produce fuel for use in nuclear power and research reactors. The recovery process produces both solid and liquid wastes (*i.e.,* uranium byproduct material, or ''tailings''), which are transported from the extraction location to an on-site uranium byproduct material impoundment or pond.

Uranium byproduct materials/tailings deposited into an impoundment or ''mill tailings pile'' must be carefully monitored and controlled. This is because the mill tailings contain radioactive or heavy metal constituents, including thorium and radium. The radium decays to produce radon, which may then be released into the environment. Radon is a radioactive gas that may be inhaled into the respiratory tract; EPA has determined that exposure to radon and its daughter products contribute to an increased risk of lung cancer.[7]

[1] See 42 U.S.C. 7911(6) for the definition of a ''processing site.''

[2] See 60 FR 2854 (January 11, 1995) and 58 FR 60340 (November 15, 1993).

[3] Byproduct material includes the tailings or wastes produced by the extraction or concentration of uranium from any ore processed primarily for its source material content. AEA section 11e.(2), 42 U.S.C. 2014(e)(2).

[4] Under Section 274 of the AEA, the NRC may enter into an agreement with a State for discontinuance of the NRC's regulatory authority and the State's assumption of regulatory authority over specified radioactive materials and activities. The NRC must review and find the State's regulatory program is adequate to protect public health and safety and compatible with the NRC's regulatory program before entering into the Section 274 agreement. The NRC continues oversight responsibilities of the Agreement State's regulatory program through the Integrated Materials Performance Evaluation Program (IMPEP).

[5] See 10 CFR part 40, Appendix A, Criterion 1.

[6] The term ''yellowcake'' is still commonly used to refer to this material, although in addition to yellow, the uranium oxide material can also be black or grey in color.

[7] *http://www.epa.gov/radon/risk_assessment.html.*

2. Heap Leaching

Another method of uranium extraction that some facilities may use is known as heap leaching. This method has been used in situations where the uranium ore is of low grade or the geology of the ore body is such that conventional mining and milling is not cost effective. Although no such facilities currently operate in the United States, the heap leach process is used for uranium recovery in other parts of the world and has, to a limited extent, been used in the United States in the past. There are plans for at least one new heap leach facility to open in the U.S. within the next few years.

With the heap leach process, small pieces of ore are placed in a large pile, or ''heap,'' on an impervious pad of plastic, clay, concrete, or asphalt, with perforated pipes under the heap. An acidic solution is then applied through drips or sprinklers over the ore to dissolve the uranium it contains. The uranium-rich solution drains into the perforated pipes, where it is collected and transferred to an ion exchange system to recover the uranium from the leaching solution. The heap is ''rested,'' meaning that there is a temporary cessation of application of acidic solution to allow for oxidation of the ore before leaching resumes. The ion exchange system extracts the uranium from the solution, which is processed into yellowcake either at the site or at another uranium recovery facility. The yellowcake is packed in special 55-gallon drums to be transported to uranium conversion, enrichment and fuel fabrication facilities to produce fuel for use in nuclear power and research reactors.

3. In-Situ Recovery (ISR)

In-situ recovery (ISR), also referred to as in-situ leach (ISL) (we will use the term ISR throughout this document), is now the dominant method of uranium recovery in the United States and much of the world. ISR research and development projects and associated pilot projects began in the 1960s in Wyoming with limited field applications. From the mid-1960s to the mid-1970s, interest in ISR methods increased, particularly in Texas and Wyoming, with 18 commercial and 9 pilot-scale operations in place by 1980. During the 1980s, production of uranium by ISR was limited, but by the mid-1990s, uranium production by ISR reached 90 percent of United States production. Commercial and pilot operations demonstrated ISR as a viable uranium recovery technique where site conditions (*e.g.,* geology and hydrology) are amenable to its use. This technology can produce a better return on investment than conventional mining and milling since it does not involve excavation of large volumes of ore or disposal of large volumes of byproduct material. Therefore, the cost to produce uranium is generally lower. The trend in uranium production has shifted toward the ISR process. In 2013, in the United States, there were six operating ISR facilities and 12 facilities proposed for licensing, licensed but not operating, or undergoing restoration.

In-situ recovery is defined as the underground recovery by oxidation/solubilization of uranium from the ore body (host rock—typically sandstone) into the groundwater by using native groundwater into which oxidizing and complexing chemicals have been added. This solution is known as lixiviant. Lixiviant is pumped into the ore zone through a set of injection wells and removed through extraction wells, followed by recovery of uranium at the surface by processing of the extracted waters.

The ore bodies most amenable to ISR are known as ''roll front'' deposits, which are formed when uranium in the oxidized groundwater encounters an area of the host formation where chemically reducing conditions exist. These reducing conditions are strong enough to chemically reduce and precipitate the uranium into a less soluble form, thus forming the ore zone. As new oxidized uranium enters the front, it continues to be chemically reduced, precipitate and deposit in successive ''rolls''. The injection of a lixiviant essentially reverses the geochemical reactions that originally formed the uranium deposit. The oxidizing agents in the lixiviant create an oxidizing environment that solubilizes the uranium from the formation and allows it to enter into the groundwater. Other components of the lixiviant (usually bicarbonate ions) act to enhance the solubility of the oxidized uranium in the groundwater. The uranium, along with other constituents present in the formation that have been mobilized (*e.g.,* metals such as molybdenum, selenium, and arsenic), are then collected from the ore zone by extraction wells that pump the solution to the surface. At the surface, the uranium is collected by a system of piping that feeds to a processing facility, where the uranium is recovered in ion exchange columns and either further processed on-site into yellowcake, or transported to another facility for processing into yellowcake. After processing, the extracted and processed waters are recharged with the lixiviant chemicals and pumped back down into the ore zone for reuse in extracting more uranium. The yellowcake is subsequently transported to uranium conversion, enrichment, and fuel fabrication facilities to produce fuel for use in nuclear power and research reactors.

Two general types of lixiviant solutions can be used, loosely defined as ''acidic'' or ''alkaline'' systems. Acidic lixiviants were used early in the development of ISR in the United States, but site-specific conditions at the sites showed that acidic lixiviants were generally unsuitable.[8] [9] In the United States, the geology and geochemistry of the majority of the uranium ore bodies favors the use of alkaline lixiviants such as bicarbonate/carbonate and oxygen. Other factors in the choice of the lixiviant are the uranium recovery efficiencies, operating costs, and the ability to achieve satisfactory groundwater restoration after production ceases.

In order to control and contain the flow of groundwater within the production zone, an inward hydraulic gradient is established using the injection and extraction (also known as production) wells.[10] To create and maintain this gradient, more water is removed from the production zone than is injected (commonly referred to by industry as the ''bleed rate''). The extracted liquid (groundwater mixed with lixiviant) goes through the recovery process to extract uranium. The processed water may be either recharged with lixiviant and re-injected to continue the recovery process or used to flush out the remaining lixiviant and mobilized uranium during the restoration process. Any waste water not reused may be injected into a deep well for disposal or be sent to an impoundment on site (often called an evaporation pond or a holding pond). The waste water generated during and after operations at an ISR facility, as well as all evaporation pond sludges derived from such waste waters, have been determined to be uranium byproduct material by the NRC, bringing

[8] Acidic lixiviants react with carbonates (calcite and dolomite) contained in the host rock and precipitate calcium sulfate. The calcium sulfate clogs the well screens and process lines, significantly decreasing the efficiency of the leaching process.

[9] Mudd, G.M. (2001). ''Critical review of acid in situ leach uranium mining: 1. USA and Australia,'' Environmental Geology, 41:390–403.

[10] The gradient controls the direction of flow of water within a water-bearing formation. Used here, the purpose of a gradient is to contain water within the production zone so that it does not migrate beyond the wellfield.

them under the jurisdiction of UMTRCA.[11]

The wellfield of an ISR operation is configured to efficiently exploit the underlying uranium ore zone based on the subsurface data collected prior to construction of the wellfield. The wellfield typically includes a series of closely spaced arrays of injection wells (each array typically has 4 to 6 injection wells spaced on the order of many tens to, at most, a few hundred feet apart) with an extraction well in the center of each array.[12] Each of these arrays is intended to work as a unit to control the flow of groundwater bearing the lixiviant so that the injected solution is captured by the extraction wells. The spacing of the injection and extraction wells is determined by the hydrologic properties of the ore zone, as evidenced by hydrologic testing during the exploration of the site, wellfield construction and monitoring well construction and operation.

During operations there is a risk of the lixiviant and/or mobilized constituents spreading beyond the capture zone of the wellfield. This poses a risk of groundwater contamination off site and in some cases surface water contamination where groundwater discharges to surface water. Monitoring wells are positioned around the production zone to detect increases in indicator parameters that would signal an excursion of the lixiviant or mobilized constituents from an ISR wellfield into surrounding groundwater. The operator of the ISR facility typically remediates any detected excursions by taking corrective actions such as ceasing injection and pumping water out of wells near the excursion. The detection and remediation of excursions is a major regulatory operational concern and needs to be carefully monitored by the operators and the regulatory agencies.

After the ore body has been depleted to uranium levels that are no longer economically valuable, the operator will cease injecting lixiviant and begin restoration of the ore zone aquifer within the wellfield(s) to return conditions to their preoperational state to the extent practicable. Extracted water, typically treated through reverse osmosis and often in combination with added reducing agents, is injected into the ore zone to flush out the remaining lixiviant and to attempt to restore the geochemistry of the ore zone to its original background (baseline) condition. Other procedures also may be used to bring about chemically reducing conditions in an attempt to immobilize the uranium (along with any other mobilized metals) remaining within the ore zone.

Once the groundwater at the site has gone through restoration and sufficient time has passed such that the licensees can demonstrate that chemical conditions are stable, the injection and extraction wells are properly plugged and abandoned,[13] the wellfield infrastructure (pipes, header houses, etc.) is removed, and surface operations equipment (impoundment liners, buildings, etc.) is dismantled and shipped offsite for appropriate reuse or disposal. The site is officially decommissioned when the radioactive materials license is terminated by the regulatory agency (*i.e.,* NRC or NRC Agreement State). Because no long-term disposal facilities remain at decommissioned ISR sites, there is no perpetual care and monitoring as occurs with conventional mill tailings sites.

C. What is the statutory authority for the proposed amendments?

EPA is proposing these new standards and amendments under its authority in Section 275 of the Atomic Energy Act (AEA) of 1954, as amended by Section 206 of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978.[14]

Section 206 of UMTRCA authorizes EPA to promulgate general standards for the protection of public health, safety, and the environment from radiological and non-radiological hazards associated with (a) residual radioactive materials located at specifically listed inactive uranium milling sites, nearby contaminated ''vicinity properties,'' and depository sites for such materials selected by the Secretary of Energy (commonly referred to as Title I sites); and (b) the processing and the possession, transfer, and disposal of byproduct material at sites at which ores are processed primarily for their uranium and thorium source material content[15] or which are used for the disposal of such byproduct material (commonly known as Title II sites). See 42 U.S.C. 2022.[16] These health, safety and environmental standards are contained in 40 CFR part 192 and are implemented by the NRC and its Agreement States, and the DOE.

Title I of UMTRCA covers inactive uranium milling sites, nearby contaminated ''vicinity properties,'' and depository sites. EPA was directed to set general standards that were consistent with the requirements of the Solid Waste Disposal Act (later amended as the Resource Conservation and Recovery Act, or RCRA) to the maximum extent practicable.

Title II of the Act covers operating uranium processing or disposal sites licensed by the NRC or Agreement States. EPA was directed to promulgate generally applicable standards to protect public health, safety, and the environment from hazards associated with processing, possession, transfer and disposal of byproduct material. Such standards were to address both radiological and non-radiological hazards; further, standards applicable to non-radiological hazards were to be consistent with the standards required under Subtitle C of the Solid Waste Disposal Act (*i.e.,* RCRA).[17] NRC was required to implement these standards at Title II sites. See 42 U.S.C. 2022(b), (d).

D. What are the existing requirements under 40 CFR part 192?

Requirements for inactive uranium milling sites, vicinity properties, and depository sites (*i.e.,* Title I sites) are addressed under subparts A, B and C of 40 CFR part 192. Since today's proposal does not impact Title I sites, they will not be discussed further in this section.

Requirements currently applicable to active uranium processing and disposal sites, including ISR sites (*i.e.,* Title II sites) can be found in subpart D of 40 CFR part 192 (hereafter ''subpart D''). Subpart D contains provisions for managing uranium byproduct materials during and following the processing of uranium ores, and restoration of disposal sites following any such use of those sites. For purposes of today's proposal, provisions related to groundwater protection are of most interest. To fulfill the statutory mandate described in section II.C of this preamble, we derived these provisions from the RCRA groundwater monitoring framework applicable to hazardous

[11] NRC (2000). ''Recommendations on Ways to Improve the Efficiency of NRC Regulations at In Situ Leach Uranium Recovery Facilities.'' Staff Requirements—SECY–99–013.

[12] See EPA (2014). ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery (ISL/ISR) Sites.'' This document can be found in the docket for today's proposed rule. (Docket EPA–HQ–OAR–2012–0788).

[13] See 40 CFR 146.10, ''Plugging and Abandoning Class I, II, III, IV, and V Wells.''

[14] See 42 U.S.C. 2022.

[15] ''Source material'' is defined as ''(1) Uranium or thorium or any combination of uranium or thorium in any chemical or physical form; or (2) Ores that contain, by weight, one-twentieth of one percent (0.05 percent), or more, of uranium or thorium, or any combination of uranium or thorium.'' See 42 U.S.C. 2014(z), 10 CFR 20.1003.

[16] Although the statute covers both uranium and thorium mill tailings sites, there are no existing thorium mill tailings sites.

[17] With the restriction that EPA not require any RCRA permit for the processing, possession, transfer, or disposal of byproduct material.

waste disposal sites.[18] Today's proposal further adapts that framework to better address the specific situation presented by ISR technology.

Though standards at subpart D apply to ISR facilities, ISR was not the predominant uranium extraction method at the time the standards were promulgated. Subpart D addresses contamination of aquifers resulting from releases of contaminants from uranium mill tailings impoundments, which are surface structures (engineered units) designed to contain uranium byproduct material (*e.g.,* conventional tailings impoundments, evaporation or holding ponds). The RCRA hazardous waste framework, which is intended to prevent, detect, and mitigate contamination of groundwater resulting from releases of hazardous waste being held in an engineered unit, is directly applicable to this situation.[19] A basic RCRA hazardous waste management unit is an engineered unit, designed, constructed, and installed to prevent any migration of wastes out of the unit to the adjacent subsurface soil, groundwater or surface water at any time during the unit's operating life, during closure and during post-closure.

At ISR sites, however, the groundwater has already been influenced by the natural mineralization associated with the uranium roll front deposits. In essence, the ''management unit'' that is the potential source of contamination is the natural setting itself, though extraction of the uranium from the deposit alters the geochemistry of the ore-bearing formation and may increase the concentration of radionuclides and other metals in the water. Restoration activities attempt to restore the original geochemistry to the subsurface. However, at present, monitoring to verify restoration generally lasts for only a period of a few years at most. We are proposing to establish standards that will require licensees to ensure that the results of their restoration process(es) persist through time, thereby limiting the future potential for groundwater to be degraded from undetected, long-term changes in groundwater from ISR operations.

E. Why does EPA believe new standards are necessary?

We believe that ISR-specific standards are necessary because uranium ISR operations are very different from conventional uranium mills and the existing standards do not adequately address their unique aspects.

In particular, we believe it is necessary to take a longer view of groundwater protection than has been typical of current ISR industry practices. Although the presence of significant uranium deposits typically diminishes groundwater quality, current industry practices for restoration and monitoring of the affected aquifer may not be adequate to prevent either the further degradation of water quality or the more widespread contamination of groundwater that is suitable for human consumption.

Because monitoring after restoration is typically conducted for only a short period, we find it difficult to characterize the probability or magnitude of future contamination problems, or the costs involved in remediating such future contamination. Such costs are not now borne by ISR licensees, nor is there any guarantee that they could be held responsible if contamination were detected by new monitoring implemented years, decades or even longer after the end of site activities once the facility is officially decommissioned and the license is terminated by the NRC or Agreement State. It is likely, however, that the costs of such future remediation would far exceed the costs of the more extensive monitoring (in all phases of site activity) that we are proposing today, together with the costs of any additional restoration or prompt corrective action that may be required to address any issues identified as a result of the more extensive monitoring. In this sense, perhaps a generalized future cost of groundwater remediation can be viewed as a proxy for the value of groundwater and its protection. Similarly, because ISR activities often take place in areas that are sparsely populated, and any subsequent contamination may take years, decades or even longer to reach groundwater being consumed by humans, it is difficult to characterize the benefits of our proposal by applying typical Agency metrics, such as the number of cancers averted.

We also recognize, however, that our efforts to protect groundwater must consider the use, value, and vulnerability of the resource, as well as social and economic values. We believe it is important to protect groundwater to ensure the preservation of the nation's currently used and potential underground sources of drinking water (USDWs) for present and future generations. Also, we believe it is important to protect groundwater to ensure that where it interacts with surface water it does not interfere with the attainment of surface-water-quality standards; these standards are also necessary to protect human health and the integrity of ecosystems.

Thus, taking a more qualitative view of the situation leads us more broadly to consider the impacts on future groundwater uses. In many areas of the country, particularly in western states where ISR activities are most likely to take place, groundwater is a scarce and valuable resource that is being rapidly depleted to support increased demands. There is evidence that some communities are making efforts to utilize groundwater that is not of ''good'' quality, and in our view this trend will only increase.

Another critical issue in groundwater protection is that groundwater generally is not directly accessible. Thus, it is much more difficult to monitor and/or decontaminate groundwater than is the case with other environmental media. Because of the expenses and difficulties associated with remediation of contaminated groundwater, we believe it is prudent and cost-effective to prevent the occurrence of such contamination rather than rely on the cleanup of preventable pollution.

Thus, the Agency believes that it is in the national interest to preserve the quality of groundwater resources to the extent practicable, and that the best way to do so is to prevent contamination by addressing its source.[20] We believe today's proposal, which focuses on the source of potential contamination at ISR sites by stricter application of groundwater standards and more extensive monitoring to ensure that groundwater restoration will endure, is a reasonable and responsible approach to achieving this goal.

1. What are the environmental impacts of uranium ISR?

As noted earlier, ISR facilities affect the environment in ways that are both distinct from, and more complicated than, conventional mill tailings sites. The alteration of large subsurface areas through injection of chemical solutions also has the potential to cause changes in groundwater at significant distances downgradient. The migration of constituents liberated from the

[18] See 40 CFR part 264, ''Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.'' See particularly subpart F, ''Releases from Solid Waste Management Units.''

[19] The design and construction requirements for surface impoundments are also taken from 40 CFR part 264. See subpart K, ''Surface Impoundments,'' specifically 40 CFR 264.221.

[20] EPA (1991). ''Protecting the Nation's GroundwaterGroundwater: EPA's Strategy for the 1990s,'' 21Z–1020.

subsurface is controlled during the operational phase through the use of extraction wells.[21]

Once uranium recovery operations at a wellfield are complete, efforts to restore groundwater in the wellfield begin. Without such efforts, contaminants could migrate hydrologically downgradient from the ISR site. Restoration efforts largely consist of injecting and extracting water to flush out the remaining mobilizing solutions (*i.e.,* lixiviant) and chemical treatments designed to reverse the chemical process and return the prevailing chemical conditions (oxidizing) in the subsurface to their preoperational chemically reducing state.

Much remains unknown about the geochemical stability of restored wellfields once ISR operations have ceased. Long-term environmental impacts may result if restoration processes do not return aquifers to their preoperational state, or if restored levels do not persist over time and groundwater degrades through the slow release of residual contaminants. Most ISR sites historically have been unable to meet restoration goals for all constituents even after extensive effort.[22] Because the past practice of monitoring after restoration has typically been for a very limited time period, we do not know if the goals that are met for the short-term are maintained for a longer time.

The restoration process itself is extremely complex and difficult to control. The fact that significant quantities of uranium and other constituents have been removed from the natural setting may affect flow patterns and create discontinuities that further complicate or retard the restoration process. Originally, uranium was precipitated from groundwater moving through pore spaces in the host medium, which altered the flow paths on a local level throughout the deposit as the deposition of uranium continued and changed the porosity and permeability of the host medium. Once uranium extraction processes begin, fluids are pumped into the deposit to mobilize the precipitated uranium and remove it; the porosity and permeability of the host rock are also affected. Because the uranium is not initially distributed evenly throughout the deposit (because of the natural variations in the host rock properties), the extraction process cannot be assumed to remove all of the uranium; in fact, it does not. The restoration process likewise cannot be assumed to fully restore the porosity and permeability characteristics of the host rock to the exact conditions that existed before the ISR operations began. These changes in hydrologic properties in the host rock during extraction and restoration processes can have the net effect of altering flow paths within the deposit on a local level. Such largely unavoidable, incomplete restoration efforts may result in pockets of slowly leaching contaminants that may migrate out of the production zone over time.

In the absence of explicit regulatory language addressing ISR facilities, NRC and its Agreement States have used guidance and license conditions to implement many aspects of groundwater protection programs, including the selection of restoration goals and post-restoration monitoring. Based upon the information that we have reviewed,[23] we believe an even more rigorous approach is warranted for (a) determining background groundwater concentrations, which are necessary to establish appropriate restoration goals, (b) establishing restoration goals, and (c) demonstrating the continued stability of groundwater after restoration. In addition, prolonged stability monitoring is needed to provide the necessary level of confidence that groundwater quality will not degrade over time or promote contaminant migration in the future.

We recognize that it is difficult to reach a definitive conclusion regarding the frequency and extent to which long-term contamination has been or is likely to be a problem at ISR sites, because post-restoration stability monitoring typically occurs for a relatively short timeframe, a few years at most; nevertheless, we believe the available information supports our concerns in this matter. Because the lixiviant used during operations oxidizes not just the uranium but the entire production zone, the effect from adding reducing agents to restore the wellfield may just be temporary. If these reducing agents migrate out of the production zone, re-oxidation of the uranium in the ''restored'' wellfield may occur. This is especially likely if the natural reducing agents originally present in the production zone (*i.e.,* organic materials and iron sulfide minerals) were sufficiently depleted during ISR operations. To determine if re-mobilization of constituents precipitated by the restoration process will occur, longer-term monitoring of the site is warranted.

We are aware of the potential for geochemical conditions in the restored wellfield to alter over time. The ISR process can cause a loss of the chemically reducing potential in the ore zone. Over time, as oxidizing groundwater makes its way into the abandoned wellfield, re-oxidation could occur. Given the slow groundwater travel times in these deposits, it would take even longer time for the degraded water to make its way to water supply wells downgradient of the production zone aquifer and be detected there. Therefore, when we speak of long-term alteration of the groundwater, we imply timeframes of decades (or longer) rather than a few years.

2. What analysis has EPA done to support the proposal?

There is only very limited information in the open literature[24] on the stability of a restored wellfield after ISR operations have ended. Typically, post-restoration monitoring concludes and license termination proceeds within a matter of several years after the restoration phase ends. The behavior of the restored wellfield in the long-term, *i.e.,* decades or longer after the ISR operations end, has not been examined. The potential for re-mobilization of the contaminants is possible and this concern is the impetus for proposing longer post-restoration monitoring periods.

We have assessed exposure scenarios and exposure pathways for potentially hazardous constituents (mainly radionuclides) and found that migration of contaminants within the ore-bearing aquifer and slow movement of contaminants into upper aquifers through discontinuities or disruptions (*e.g.,* abandoned boreholes) and other possible failure scenarios (leaks, spills, etc.) have the potential to result in significant exposures to individuals outside the production areas.[25] These assessments suggest that a robust regulatory approach is advisable in order to prevent various failure scenarios that may occur during and after ISR operations, and to mitigate the

[21] Extraction wells are also used during the restoration phase to control the migration of constituents liberated from the subsurface.

[22] Hall, Susan (2009). ''Groundwater Restoration at Uranium In-Situ Recovery Mines, South Texas Coastal Plain.'' U.S. Geological Survey.

[23] For example, Hall, Susan (2009). ''Groundwater Restoration at Uranium In-Situ Recovery Mines, South Texas Coastal Plain.'' U.S. Geological Survey.

[24] Borch, T., N. Roche and T.E. Johnson (2012), ''Determination of Contaminant Levels and Remediation Efficacy in Groundwater at a Former In Situ Recovery Uranium Mine.'' Journal of Environmental Monitoring, 14:1814–1823.

[25] EPA (2012), ''Groundwater Modeling Studies at In Situ Leaching Facilities and Evaluation of Doses and Risks to Off-Site Receptors from Contaminated Groundwater.''

potential adverse effects of any such failures.

In examining the technical literature pertaining to ISR operations, we have found that some modeling studies indicate that the uranium recovery operations can result in the development of relatively slower groundwater pathways through the wellfield, as well as the persistence of injected lixiviant within the production zone. These results suggest that the typically short post-remediation monitoring periods prior to license terminations may fail to detect subsequent contaminant migration out of the wellfield along these slow transport paths. We are proposing stability monitoring periods longer than the current practice and requirements to address these situations. Statistical analyses of well water chemistry data over a relatively short time (a year or two) alone does not in itself demonstrate that slow pathways are absent or that the groundwater will remain in a chemically reduced state over the long term. We believe that only a combination of longer stability monitoring and geochemical modeling using site-specific data can provide confidence that the ISR site poses no long-term hazards, and we are proposing such provisions today.

We have also examined various statistical approaches that might be suitable for evaluating long-term groundwater stability.[26] We gave special attention to the requirements for data to be used in deciding, with a given level of statistical confidence, that stability was achieved over a specified period of time. While we do not recommend any specific statistical method be applied universally to all ISR situations (because the hydrogeology and geochemistry of ISR sites are not uniform by nature and because there is more than one statistical method that can be used), we do believe that the method(s) chosen must be justified by the quality and quantity of the field data collected. Linear regression techniques are typically used to examine time series measurements (concentrations of groundwater constituents measured over time intervals) for the presence of trends in the data (*i.e.,* to determine if the data show increases or decreases in the measured concentrations over time). While this type of analysis is relatively simple and can be used for quick screening to identify the presence of strong linear trends, it is often not sufficiently rigorous when used with field data because of significant limitations on the data sets. For linear regression assessments, the data must have a normal distribution and constant variance (two requirements that are difficult to demonstrate with field data). The data must have few or no values below the analytical detection limits for the measured parameter, and minimal outliers in the data or cyclical patterns (*e.g.,* no detectable seasonality in the case of shallow aquifers). Field data rarely meet these conditions. Parametric and nonparametric techniques are more rigorous than simple linear regression but also have specific data demands. Parametric statistical tests require more complete data sets but require less data overall to reach the same statistical confidence levels as non-parametric tests, which are more tolerant of data shortcomings such as missing data in a series of measurements. Less than perfect data sets are common in field efforts, making non-parametric techniques potentially more useful in practice. These methods are extensively assessed in the background information document.[27] The EPA document, ''Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities—Unified Guidance'' (2009), offers appropriate guidance on the level of confidence to be attained for demonstrating stability before regulatory decisions are made to terminate the operating license and release the wellfield for other uses. For RCRA monitoring results, where the intent is to ensure contaminants do not migrate out of the unit and into the uppermost aquifer, a confidence level of 95 percent is expected to support a regulatory action to terminate the permit.[28] We believe an equivalent degree of confidence in the long-term stability of a restored ISR wellfield is appropriate.

3. What came out of the Advisory from EPA's Science Advisory Board?

In early 2011, we approached EPA's Science Advisory Board (SAB)[29] to obtain advice regarding the complex scientific and technical issues related to groundwater protection at ISR sites. The SAB is an independent advisory body established by Congress in 1978 with a broad mandate to advise the Agency on technical matters. The SAB typically interacts with EPA programs through one of the following processes: (1) A consultation, which is a conceptual evaluation at the early stages of an action; (2) an advisory, which is typically a more detailed evaluation to address specific technical issues during development of a rule or technical guidance; or (3) a review, which is a detailed evaluation of a completed action to determine how the Agency incorporated science into its decision-making. The SAB will often conduct a review of an action on which it had previously weighed in through a consultation or advisory.

We sought an advisory with the Radiation Advisory Committee (RAC), which is the committee of the SAB specializing in radiation issues. For purposes of this advisory, the RAC was augmented with several additional experts with specialized knowledge of geochemistry or hydrogeology pertinent to ISR.

We prepared a report outlining the technical issues involved in groundwater protection during the life cycle of an ISR facility[30] and requested that the RAC comment on the following:

(1) The technical areas described in the report and their relative importance for designing and implementing a groundwater monitoring network;

(2) The proposed approaches for characterizing background (baseline) groundwater chemical conditions in the pre-operational phase and proposed approaches for determining the duration of such monitoring to establish background (baseline) conditions;

(3) The approaches considered for monitoring in the long-term stability phase and the approaches considered for determining when groundwater chemistry has reached a ''stable'' level; and

(4) Suitable statistical techniques that would be applicable for use with uranium ISR applications (particularly for the areas in items 2 and 3 above), as well as the subsequent data requirements for their use.

Public meetings/teleconferences of the advisory committee were held from July 12, 2011 through December 21, 2011, and included a two-day meeting in July 2011 with presentations by EPA management and staff, discussions with the RAC members, comments from members of the public, and initial reporting assignments for the RAC. NRC staff also attended the meetings and provided valuable input for the committee.

The RAC submitted its final report on February 17, 2012.[31] EPA responded to

[26] EPA (2014), ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery Sites.''

[27] *Ibid.*

[28] 40 CFR 264.97(h) & (i).

[29] *http://yosemite.epa.gov/sab/sabpeople.nsf/WebCommittees/BOARD.*

[30] EPA 402/D–14–001 ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery (ISL/ISR) Sites,'' Environmental Protection Agency, 2014.

[31] All information related to the advisory is located at *http://yosemite.epa.gov/sab/sabproduct.nsf/c91996cd39a82f6485257424006*

each recommendation and updated its draft report as part of the technical background information document for this proposal.[32] Among the more prominent RAC recommendations are the following:

- Identify indicators, both chemical and radioactive, for establishing conditions pre- and post-operationally, not limited to those with regulatory limits, but also including non-hazardous constituents that can affect the behavior of, or serve as surrogates for, constituents of interest;
- Devote at least as much effort to defining background groundwater conditions as to post-operational trend monitoring;
- Consider challenging and fluctuating ambient circumstances in background characterization;
- Build in flexibility to modify the design and implementation of monitoring programs as new information becomes available;
- Carefully qualify the meaning of ''return to preoperational groundwater quality'';
- Match sampling frequency and duration to information needs for hydrogeologic model confirmation;
- Present a survey of methods to determine sufficient well number and density; and
- Select statistical evaluation approach in terms of strengths and weaknesses to suit questions to be answered.

We believe today's proposal appropriately addresses these issues and incorporates the advice of the RAC.

4. What efforts has the Nuclear Regulatory Commission taken recently?

NRC regulates uranium mills and mill tailings in accordance with Appendix A to 10 CFR part 40.[33] Appendix A incorporates EPA's 40 CFR part 192 standards. NRC has developed guidance related to ISR activities [34] and has implemented facility requirements through license conditions. Agreement States regulating ISR facilities have taken a similar approach.

In recent years, NRC has recognized the desirability of ISR-specific regulations. NRC has been concerned with the potential for duplicative or conflicting groundwater protection requirements at ISR sites where NRC implements UMTRCA requirements but the EPA, or a state with primary enforcement responsibility (''primacy''), also regulates the injection associated with ISR through its Underground Injection Control (UIC) authorities, which are derived from EPA under the Safe Drinking Water Act (see Section II.F.1 of this document). In 2003, NRC staff recommended that NRC enter into a Memorandum of Understanding (MOU) with the affected states (at the time, Wyoming and Nebraska) to defer active regulation of groundwater to the states.[35] This recommendation was approved by the Commission.

Upon further investigation, however, NRC staff reported to the Commission that ''the Nebraska and Wyoming groundwater protection programs were found to be not equivalent to the NRC's groundwater protection program.'' Specifically, both states required restoration of groundwater to ''a quality of use'' consistent ''with the uses for which [it] was suitable prior to'' the ISR operation, rather than to levels consistent with NRC and EPA restoration standards under UMTRCA.[36]

After considering this information, the Commission determined in 2006 that the appropriate action was ''initiation of a rulemaking effort specifically tailored to groundwater protection programs at *in situ* leach (ISL) uranium recovery facilities.'' Further, the Commission directed that ''[t]he staff should focus on eliminating dual regulation by the NRC and EPA of groundwater protection. The NRC should retain its jurisdiction over the wellfield and groundwater under its Atomic Energy Act authority, but should defer active regulation of groundwater protection programs to the EPA or the EPA-authorized state through EPA's underground injection-control permit program.'' [37]

EPA disagreed with the approach recommended by the Commission. EPA has always held the position that UMTRCA is the controlling legal authority for protection of groundwater and NRC is obligated to implement the 40 CFR part 192 standards to carry out that function at ISR sites. Reliance on the requirements of the UIC program alone would not adequately address groundwater protection at ISR facilities, given that the purpose of the UIC program is to prevent endangerment of underground sources of drinking water (USDWs), not to address restoration of groundwater. Moreover, if the groundwater is not considered a USDW, as is typically the case at ISR sites, it is not protected under the Safe Drinking Water Act (SDWA). Reliance on the UIC program alone would also likely lead to inconsistent levels of protection since states can implement more stringent requirements than the national UIC requirements and, as NRC discovered, states with authority to implement the UIC program may not have groundwater protection requirements consistent with those that have been applied to conventional mills. EPA decided to address groundwater protection at ISR facilities by amending its UMTRCA standards, as we are proposing to do today. The Commission subsequently decided that the NRC rulemaking should be deferred until EPA's revised standards are final.[38]

F. What other EPA statutes and regulations are relevant?

There are several other EPA environmental statutes and regulations that are relevant to ISR facilities and operations. The Safe Drinking Water Act, Clean Water Act, Clean Air Act and Resource Conservation and Recovery Act are all detailed below. It should be noted that UMTRCA requires us to establish protections consistent with the requirements of the Resource Conservation and Recovery Act.

1. Safe Drinking Water Act (SDWA)

The Safe Drinking Water Act (42 U.S.C. 300f *et seq.,* 1974) is the main federal law that addresses drinking water. Under the SDWA, EPA sets health-based standards for drinking water to protect against naturally occurring and anthropogenic contaminants that may be found in drinking water.[39] EPA and states work

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[32] EPA (2014), ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery Sites.''

[33] ''Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content.'' 10 CFR part 40 more broadly covers ''Domestic Licensing of Source Material.''

[34] For example, see NRC (2003). ''Standard Review Plan for In Situ Leach Uranium Extraction License Applications (NUREG–1569).'' Available at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1569/.*

[35] NRC (2003). ''Options and Recommendations for NRC Deferring Active Regulation of Ground-Water Protection at In Situ Leach Uranium Extraction Facilities.'' SECY–03–0186.

[36] NRC (2006). ''Status of the Development of Memoranda of Understanding with Nebraska and Wyoming, Regarding the Regulation of Groundwater Protection at Their *In Situ* Leach Uranium Recovery Facilities.'' SECY–05–0123.

[37] NRC (2006). ''Regulation of Groundwater Protection at *In Situ* Leach Uranium Extraction Facilities.'' Staff Requirements—COMJSM–06–0001.

[38] NRC (2011). ''NRC Regulatory Agenda: Semiannual Report, July–December 2010.'' NUREG–0936; Vol. 29, No. 2.

[39] After reviewing health effects studies, EPA sets a Maximum Contaminant Level Goal (MCLG), the maximum level of a contaminant in drinking water

Continued

together to implement those standards at public water systems.[40] Implementing regulations in 40 CFR part 141 include the establishment of national primary drinking water standards.

The SDWA also addresses sources of drinking water, including underground sources, which may be used by public water systems or private well owners. As required by the SDWA, EPA established regulations for UIC programs to prevent underground injection that endangers drinking water sources.[41] Under this program, the Agency has a permit system to prevent endangerment of USDWs. It prohibits any injection activity that allows the movement of fluid containing any contaminant into underground sources of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation or otherwise adversely affect the health of persons. EPA's UIC regulations, including permit requirements, are found at 40 CFR parts 144–148. They address construction, operation, monitoring, reporting, and plugging and abandonment of injection wells to prevent the movement of fluids into any USDW.[42]

EPA's UIC regulations for Class III wells protect USDWs by prohibiting the movement of any contaminant into the underground source of drinking water (*e.g.,* injection of fluids or release or migration of naturally occurring contaminants into an underground source of drinking water). A USDW is defined in EPA regulations as any aquifer or its portion (a)(1) which supplies a public water system or (2) which contains a sufficient quantity of groundwater to supply a public water system; and (i) currently supplies drinking water for human consumption; or (ii) contains fewer than 10,000 mg/l total dissolved solids; and (b) which is not an exempted aquifer. The receiving aquifer must not meet the definition of a USDW. An aquifer or a portion of an aquifer may be exempted from the protections afforded USDWs if (a) it does not currently serve as a source of drinking water and (b) it cannot now and will not in the future serve as a source of drinking water because one of four specified conditions is met,[43] or the total dissolved solids content of the groundwater is more than 3,000 mg/l and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

The construction of a Class III injection well at an ISR facility requires a UIC permit be obtained. Currently, ISR facilities are injecting lixiviant and extracting uranium from within exempted aquifers. If an underground injection well is used for injection into an exempted aquifer or a portion of an exempted aquifer, it is still regulated to protect the non-exempt portions of the USDW and other nearby USDWs. The scope of coverage of an aquifer exemption request is typically the portion of the USDW affected by the activity. It is possible that future ISR facilities will inject lixiviant and extract uranium from ore deposits that are within poorer quality aquifers that do not meet the definition of USDW; although an aquifer exemption would not be necessary in such a case, an UIC permit would still be required.

EPA has established minimum requirements for states or tribes to obtain authority to implement the UIC program.[44] To obtain ''primacy'' to implement the UIC program for Class III wells, states or tribes must adopt and submit to EPA for approval, UIC Class III injection well requirements that are at least as stringent as EPA's minimum requirements. The state or tribe may establish and implement requirements more stringent than the EPA UIC regulations, but not less stringent than the minimum federal requirements. Further, primacy states have the authority to identify and propose aquifers for exemption as part of their initial UIC program submission, or subsequent to program approval; however, these proposed exemptions generally must be affirmatively approved by the EPA.[45]

Aquifer exemptions have been a source of confusion regarding the applicability of our UMTRCA standards, which we hope to clarify today in this rule. There are limited UIC requirements relating to restoration of the exempted portion of the aquifer;[46] furthermore, an aquifer exemption does not eliminate the need to comply with the requirements of UMTRCA. The aquifer exemption provides relief from certain UIC requirements under the SDWA, thereby allowing injection into aquifers that would otherwise meet the definition of a USDW. The part 192 standards, however, are promulgated under a different statute. Therefore, an aquifer exemption under the SDWA does not relieve the licensee of the obligation to remediate environmental contamination resulting from activities regulated under UMTRCA. Today's proposal clarifies that EPA standards issued pursuant to UMTRCA do apply within the exempted portion of the aquifer.

2. Clean Water Act (CWA)

The Clean Water Act (33 U.S.C. 1251 *et seq.,* 1972) requires the establishment of water quality standards for, and regulation of pollutant discharges into, waters of the United States. The CWA's definition of ''pollutant'' includes radioactive materials, 33 U.S.C. 1362(6); EPA's regulations at 40 CFR 122.2 define the term ''pollutant'' to include radioactive materials ''except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*) . . . .'' Radioactive materials covered by the AEA are those encompassed in its definitions of source, byproduct, and special nuclear materials. *See* 42 U.S.C. 2014. The radioactive materials EPA may regulate under the CWA ''are those not encompassed in the definition of source, byproduct or special nuclear materials as defined by the [AEA] and regulated pursuant to that Act.'' *See Train* v. *Colorado Public Interest Research Group, Inc.,* 426 U.S. 1, 11 (1976). Under the CWA, EPA has implemented pollution control programs, such as

at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MCLGs are non-enforceable public health goals. Since MCLGs consider only public health and not the limits of detection and treatment technology, sometimes they are set at a level which water systems cannot meet. When determining an MCLG, EPA considers the risk to sensitive subpopulations (infants, children, the elderly, and those with compromised immune systems) of experiencing a variety of adverse health effects. Once the MCLG is determined, EPA sets an enforceable standard. In most cases, the standard is a Maximum Contaminant Level (MCL), the maximum permissible level of a contaminant in water which is delivered to any user of a public water system. The MCL is set as close to the MCLG as feasible. EPA must determine the feasible MCL or treatment technique which the Safe Drinking Water Act defines as the level that may be achieved with the use of the best available technology, treatment techniques, and other means which EPA finds are available (after examination for efficiency under field conditions, not solely under laboratory conditions), taking cost into consideration.

[40] SDWA does not regulate private wells that serve fewer than 25 individuals or have fewer than 15 service connections.

[41] SDWA Section 1421(c)(2)(C)(2) states: ''Underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.'' 42 U.S.C. 300h(d)(2).

[42] EPA defines six classes of underground injection well. Uranium in-situ recovery operations are permitted as Class III wells. 40 CFR 146.5(c)(2).

[43] The presence of minerals or hydrocarbons that are, or are expected to be, commercially producible, is one of these specified conditions; this would likely be the situation at a proposed ISR site. 40 CFR 146.4.

[44] 40 CFR part 145, ''State UIC Program Requirements.''

[45] 40 CFR 144.7(b)(2) & (3).

[46] 40 CFR 146.10(a)(4).

setting technology-based wastewater discharge limitations and standards for various industries. Subpart C of 40 CFR part 440 provides technology-based effluent limitations guidelines and standards applicable to discharges from mills at which uranium, radium and vanadium are extracted. Permits for discharges to surface waters must include applicable technology-based limits, as well as any more stringent water quality-based effluent limits necessary to achieve water quality standards established under Section 303 of the CWA, including state narrative criteria for water quality.

3. Clean Air Act (CAA)

EPA regulates radionuclide emissions through its authority under the CAA, 42 U.S.C. 7401 *et seq.* The Agency has promulgated regulations for controlling radon emissions from operating uranium byproduct materials impoundments located at uranium recovery facilities, including ISR sites, at 40 CFR part 61, Subpart W.

4. Resource Conservation and Recovery Act (RCRA)

The Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*) was passed in 1976 as an amendment to the Solid Waste Disposal Act of 1965, to ensure that solid wastes are managed in an environmentally sound manner. RCRA gives EPA the authority to control hazardous waste from ''cradle-to-grave.'' This includes the generation, transportation, treatment, storage, and disposal of hazardous waste (Subtitle C). RCRA also set forth a framework for the management of non-hazardous solid wastes (Subtitle D). RCRA has been further amended to extend its application; for example, the 1986 amendments to RCRA enabled EPA to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances.

UMTRCA requires that generally applicable standards promulgated under its authority by EPA for non-radiological hazards be consistent with the standards issued under Subtitle C of the Solid Waste Disposal Act (now RCRA) that are applicable to those same hazards. The most appropriate RCRA regulations that bear on the ISR process are contained in 40 CFR part 264.[47] These regulations deal with functionally relevant issues such as requirements for: The siting, design and operation of impoundments; monitoring groundwater around land-based storage and disposal facilities; detecting contaminant releases and conducting subsequent corrective actions; and establishing the duration of compliance monitoring periods. These requirements are easily applied to conventional mill tailings impoundments, which are to be constructed to RCRA standards, although they are expected to remain under institutional control for much longer periods.[48] Similarly, we believe many of the requirements and concepts should be applicable to the long-term behavior of an ISR site after uranium extraction has ceased and the operators have made efforts to restore the wellfield to conditions that existed before the uranium recovery operation began. Conceptually, at that stage there is similarity between a closed hazardous waste disposal facility and a restored ISR wellfield in the sense that both strive to avoid off-site migration of contaminants. The intent of the groundwater monitoring efforts at these two types of facilities share the common objective of verifying that containment of contaminants meets expectations. The location of compliance point(s) for monitoring data collection, performance measures for assessing compliance with regulatory requirements, duration of the monitoring program and the extent of data necessary for regulatory decision-making are areas that we believe can be adapted to better fit the unique aspects of the ISR application. These subjects are discussed in the next section.

III. Summary of Today's Proposal

Today's proposal is limited to the following items. First, we are proposing new standards to explicitly address groundwater protection at uranium ISR facilities. Second, we are proposing to amend existing provisions only as necessary to address a judicial decision, an outdated reference and known typographical and grammatical errors. At this time, we request public comment only on these proposed standards and amendments. We are not requesting, and will not respond to, public comments related to any other provisions since they are beyond the scope of today's proposal. The rationale for these elements of our proposal is discussed in Section IV of this document.

A. Proposed Standards (Subpart F)

1. Proposal of a New Subpart—Subpart F—Public Health, Safety and Environmental Protection Standards for Byproduct Materials Produced by Uranium In-Situ Recovery

A new subpart F is being proposed that would set standards that would apply to uranium ISR facilities only.

2. Addition of a New Section on Applicability—§ 192.50 Applicability

We are proposing applicability language under subpart F that specifies the subpart will apply to the management of uranium byproduct materials during and following the processing of uranium ores using ISR methods.

3. Addition of a New Section Containing Definitions—§ 192.51 Definitions and Cross-References

To help ensure consistency with subparts A, B, C, D and E, all terms in the proposed subpart shall carry the same meaning as previously defined, unless otherwise specified. To help ensure clarity, the new subpart will contain numerous definitions specific to ISR. The following terms are defined:

TERMINOLOGY
Adjacent Aquifer
Alternate Concentration Limit (ACL)
Aquifer
Background
Constituent
Exceedance
Excursion
Excursion Monitoring Well
Exempted Aquifer
Extraction Well
Indicator Parameter
Injection Well
In-Situ Recovery (ISR)
Listed Constituent
Lixiviant
Long-Term Stability Phase
Maximum Constituent Concentration
Maximum Contaminant Level (MCL)
Monitoring Wells
Operational Phase
Overlying Aquifer
Point(s) of Compliance
Point(s) of Exposure
Preoperational Monitoring
Production Zone
Restoration (Act of)
Restoration Goal
Restoration Phase
Site
Stability Phase
Underlying Aquifer
Upper Control Limit (UCL)
Uranium Recovery Facility
Wellfield

[47] ''Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.''

[48] These requirements also apply to any uranium byproduct impoundments (*i.e.,* ponds) that are removed at the end of licensed operations.

4. Addition of a New Section Detailing Standards—§ 192.52 Standards

In the new subpart, EPA proposes to specify the minimum 13 constituents for which groundwater protection standards must be met. The list includes the following: Arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, nitrate (as N), molybdenum, combined radium-226 and radium-228, uranium (total), and gross alpha-particle activity (excluding radon and uranium). See section II.F.1 of the preamble and footnote for background. After groundwater restoration, the concentration of each listed constituent within the exempted aquifer of an ISR wellfield must remain at or below the most protective standards under the SDWA (40 CFR 141.61, 141.62, 141.66, 141.80 and 143.3), values from RCRA standards (40 CFR 264.94), or Table 1 to subpart A of part 192, except in cases where the measured preoperational background concentration is higher than the most stringent value in the applicable regulations. In such cases, the measured background concentration will serve as the restoration goal. The proposed language allows for the regulatory agency to set groundwater protection standards for additional constituents as necessary, consistent with site conditions.

The new subpart also describes the process for requesting and approving alternate concentration limits (ACLs) after restoration has taken place.

5. Addition of a New Section Discussing Monitoring Requirements—§ 192.53 Monitoring Programs

In addition to the constituents to be monitored at ISR facilities, the new subpart also details the specific requirements of monitoring programs to be conducted during the preoperational, operational, restoration, stability and long-term stability phases.

6. Addition of a New Section Establishing Requirements for Corrective Actions—§ 192.54 Corrective Action Program

Should an excursion be detected or the proposed groundwater standards be exceeded at the excursion monitoring wells or long-term stability compliance wells at any licensed ISR site, we propose to require that a corrective action program be put into place as soon as is practicable and no later than 90 days after an excursion or an exceedance is discovered. Similar to the approach taken in subpart D, we propose that the corrective action program put into place meet the specifications of § 264.100.

7. Addition of a New Section Detailing the Effective Date of the New Subpart—§ 192.55 Effective Date

We are proposing that the rule go into effect 60 days after it is promulgated in the **Federal Register**, the legal minimum amount of time between promulgation of the new subpart and its effective date.[49]

B. Other Proposed Amendments

1. Revision to Subpart C—Implementation

In an effort to address an outdated reference, EPA proposes to remove mention of the Grand Junction Remedial Action Criteria (10 CFR 712); the criteria were removed from the CFR between 1981 and 1982. In addition, EPA proposes to delete language citing certain remedial options that ''may provide reasonable assurance of'' radon decay product concentration reductions. The final report for the Grand Junction Remedial Action Program, issued in 1989, stated that the methods were not effective over the long term.

2. Revision to Subpart D—Standards for the Management of Uranium Byproduct Materials

EPA proposes to amend the heading of Subpart D. The proposed amendment will remove an inaccurate citation of EPA's authority. In order to correct certain typographical and grammatical errors that have been identified in Subpart D since promulgation, EPA proposes the following technical corrections:

Section	Proposed technical correction and reason
§ 192.31(a)	Replace ''Uranium Mill Tailings Rediation Control Act'' with ''Uranium Mill Tailings Radiation Control Act'' to correct a typographical error.
§ 192.31(f)	Replace ''pile containing uranium by product materials'' with ''pile containing uranium byproduct materials'' to correct a typographical error.
§ 192.32(a)(2)(v)	Replace ''laser fusion, of soils, etc.'' with ''laser fusion of soils, etc.'' to correct a grammatical error.

EPA is also proposing to modify § 192.32(a)(2)(v) in order to delete the NRC requirement to obtain concurrence from EPA before NRC may approve an alternate requirement or proposal under AEA section 84(c).[50] This portion of § 192.32(a)(2)(v) was effectively struck down by the Tenth Circuit Court of Appeals in *Environmental Defense Fund vs. U.S. Nuclear Regulatory Commission,* 866 F.2d 1263 (10th Cir. 1989).

IV. What is the Rationale for today's proposal?

Groundwater is one of our nation's most precious resources. A significant portion of the U.S. population draws on groundwater for its potable water supply. In addition to serving as a source of drinking water, people use groundwater for irrigation, stock watering, food preparation, personal health and hygiene, and various industrial processes. When that water is radioactively contaminated, each of those uses becomes a radiation exposure pathway for people. Groundwater contamination is also of concern to us because of potential adverse impacts upon ecosystems, particularly sensitive or endangered ecosystems. For these reasons, it is a resource that needs protection.

A number of federal and state laws have been passed through the years to protect drinking water. At the federal level, the SDWA (discussed in detail in Section II.F.1) establishes the basic framework for protecting the drinking water used by public water systems in the United States. This law contains requirements for ensuring the safety of the nation's public drinking water supplies. At the state level, many similar drinking water and water use laws have been passed.

Groundwater is also a valuable and dwindling resource, particularly in western states where most ISR activities are anticipated. EPA views protecting groundwater as a fundamental part of its mission. Particularly in cases where groundwater is directly threatened by an activity, as it is by the ISR technology, EPA believes it has a special duty to ensure that the authority of all applicable federal statutes (*e.g.,*

[49] See 42 U.S.C. 2022(c)(3).

[50] See 42 U.S.C. 2114(c).

UMTRCA and the SDWA) are used to help protect the groundwater and that appropriate standards to protect public health, safety and the environment are developed and implemented.

We anticipate the objection that the presence of uranium deposits typically results in groundwater of poor quality, and not a pristine source of drinking water. We recognize that this is often the case, and that the volume of water affected by the mineralized zone may be significant. We do not, however, see this as a reason to allow this groundwater to be further degraded. The increasing scarcity of groundwater is leading some communities to consider using sources of water that previously would have been considered non-potable, using advanced treatment to make it suitable for livestock or human consumption. Since such advanced treatment may not be economically feasible for some communities, it is all the more important to prevent, as much as reasonably possible, additional degradation of the groundwater.

A guiding philosophy in radioactive waste management, as well as waste disposal in general, has been to avoid imposing burdens on future generations for clean-up efforts as a result of management approaches that are reasonably anticipated to result in pollution in the future. Adhering to the concept of sustainability, we should not knowingly impose undue burdens on future generations. Imposing performance requirements that avoid polluting resources that reasonably could be used in the future, therefore, is a more appropriate choice than imposing clean-up burdens on future generations. ISR facilities use significant volumes of water during both operations and restoration. We believe it is reasonable to make every effort to ensure that ISR activities leave groundwater in no worse condition than pre-ISR operational status.

A. How does today's proposal relate to existing 40 CFR part 192?

In 1983, EPA promulgated regulations at 40 CFR part 192 in response to the statutory requirements of UMTRCA. At the time, uranium recovery from ore was done almost exclusively by conventional milling processes, where at most a few pounds of uranium were recovered for each ton of ore mined and processed. The wastes from the milling process (the tailings and raffinates, *i.e.,* uranium byproduct materials) were disposed of in large piles on the surface at mill sites, posing contamination risks to surface water, groundwater, and soils, both on and off site. Liquid wastes were often discharged into rivers. Contaminants of concern consisted primarily of radionuclides and non-radioactive metals, radon gas and organics. Concerns that these tailings piles would be a continuing source of radiation exposure and environmental contamination unless properly reclaimed and managed were the driving force behind the passage of UMTRCA. The statute's intent was to contain tailings in engineered impoundments to prevent the further dispersion and misuse of the material. This measure would also protect uncontaminated aquifers from becoming contaminated by the uranium mill tailings impoundments and prevent radon emissions through performance specifications for radon barriers (covers). Because the major environmental risk at that time was perceived to come from the conventional uranium mill tailings, which already existed in large volumes, other uranium recovery technologies, including ISR, received little attention.

As stated earlier, ISR has surpassed conventional milling as the dominant form of uranium extraction in the United States and is expected to predominate in the future. The ISR process presents different environmental concerns from conventional milling. ISR does not generate large volumes of solid waste materials or require permanent tailings impoundments. The ISR process does, however, directly alter groundwater chemistry, posing the challenge of groundwater restoration and long-term subsurface geochemical stabilization after the ISR operational phase ends. With ISR, the ''milling'' of uranium ore is performed within the ore zone aquifer by injection of lixiviants. As stated earlier, the lixiviants can also liberate other elements, particularly metals that are often found co-located with uranium deposits. Their migration outside the production zone can potentially contaminate surrounding aquifers. Furthermore, when processing of the ore zone is no longer economically viable, ISR operators can release the site for future use, either by selling the land or returning the property to the original owner. The operators are required to restore the aquifer to its original geochemical conditions, to the extent possible, and to show some level of stability in the geochemistry of the production zone before terminating the license and making the site available for other uses. Whereas conventional mill tailings piles are under perpetual institutional control, current NRC regulations allow for ISR sites to terminate their licenses, essentially ending regulatory oversight of the site.

Today, EPA is reaffirming that ISR facilities are subject to the 40 CFR part 192 requirements. We seek to provide clear direction on how to monitor groundwater in and around the production zone during all phases of the ISR facility's lifecycle, and how to demonstrate geochemical stability at these sites.

We believe there has been some uncertainty about how to apply the current standards, which are more targeted to conventional mills, to ISR sites. In addition, there has been confusion about applicability of UMTRCA restoration requirements at aquifers that have been exempted from the standards of the SDWA. With the prospect of additional ISR facilities beginning operations, we believe it is necessary to clarify these issues. Therefore, we are proposing additional groundwater protection provisions to 40 CFR part 192 that are specific to uranium ISR facilities and consistent with the SDWA and RCRA. We believe these provisions are necessary to ensure that ISR sites are not released from regulatory control until it can be reasonably demonstrated that groundwater will not degrade over time.

Specifically, we are proposing provisions that will result in long lasting protection of surrounding aquifers. The provisions specify how to determine preoperational background conditions that will be used to set appropriate restoration goals, applicable standards and alternate concentration limits. We are also proposing specifications for long-term groundwater stability monitoring and a corrective action program that is triggered if excursions/exceedances do occur. We view these as the key elements in ensuring that ISR sites do not become a source of continuing or widespread contamination after the ISR operation is terminated.

Sufficient data must be collected to characterize the conditions existing within and outside the proposed production zone to set appropriate groundwater protection standards (*i.e.,* restoration goals) that account for the variability in geochemistry frequently encountered in mineralized regions. Subsequent to the end of uranium production, the regulator must ensure that alternate standards are approved only after restoration has been attempted and it is clearly demonstrated that the initial groundwater protection standard(s) cannot be achieved, or once achieved, cannot be maintained. Such approval should take place only after the operator has made reasonable and

satisfactory efforts to achieve and maintain the initial standard(s) and fully considered a number of factors. Whether the initial goals are met or alternate concentration limits are approved, conditions must be shown to be stable and groundwater quality must not degrade over time, as is possible when: lingering amounts of lixiviant solution remain in isolated pockets within the wellfield; reducing conditions are not fully reestablished; and/or the long-term stability monitoring period is too short compared to the time it takes for groundwater to move through the aquifer. Therefore, the operator must monitor groundwater at the site for a sufficiently long period after restoration is complete and use statistically significant results to provide a reasonable demonstration that long-term stability has been achieved. This demonstration can include geochemical modeling to confirm the persistence of stability of the groundwater chemistry. Geochemical modeling can provide a defensible demonstration of an aquifer's natural capacity to maintain stability, which statistics alone cannot provide. Although the selection and application of geochemical models will be on a site-specific basis, geochemical models that have been used to predict the fate and transport of uranium at ISR facilities include PHT3D, PHREEQC, and PHAST.

We intend for today's proposal to eliminate any confusion about the relationship of the aquifer exemption process to restoration requirements at ISR sites. We further recognize that the application of the existing standards in 40 CFR part 192 to ISR sites is not as straightforward as it could be. Nevertheless, we believe there is sufficient information available to indicate that practices related to groundwater protection at ISR facilities have not been sufficiently rigorous to provide confidence either that groundwater is being restored appropriately or that such restoration will persist into the reasonably foreseeable future.[51] [52] [53] We believe today's proposal addresses these issues in a manner that is both logical and implementable;[54] we solicit comment on our view of the current situation and the overall approach of our proposal.

B. What groundwater protection standards are we proposing for ISR facilities?

We are proposing today to establish groundwater protection standards consistent with those applied to conventional mills in 40 CFR part 192, subpart D. That is, the licensee will use as the applicable standard during restoration and long-term stability monitoring either (1) the background concentrations of groundwater constituents measured prior to the start of the ISR operational phase; or (2) a specified regulatory level, whichever is higher. In certain circumstances, the licensee may request that the regulatory agency approve an alternate concentration limit.

1. Generally Applicable Groundwater Standards

We emphasize again that the groundwater protection standards currently found in 40 CFR part 192 apply to ISR sites. These standards address both radiological and non-radiological constituents. The standards applicable to non-radiological constituents adopted the requirements for groundwater monitoring at RCRA hazardous waste sites.[55] These generally applicable standards were originally based upon EPA's 1976 Maximum Contaminant Levels (MCLs) in drinking water (40 CFR part 141).[56] See section II.F.1 of the preamble and footnote for background. EPA further specified radiological and non-radiological constituents of concern at mill tailings sites. Following the same approach, we are proposing today to specify, as Table 1 to subpart F, the constituents that must be monitored at ISR sites, as appropriate. The required constituents mirror those included in Table 1 to subpart A of 40 CFR part 192, with the exception of the six pesticides.[57]

We are not proposing to establish new numerical standards in the rule. EPA's preferred option for carrying over and updating the groundwater protection standards in the new ISR-specific subpart F is to incorporate, by reference, the most protective standards issued under the SDWA (40 CFR 141.61, 141.62, 141.66, 141.80 and 143.3), values from RCRA standards (40 CFR 264.94), and the maximum constituent concentrations found in Table 1 to subpart A of 40 CFR part 192. By incorporating these standards by reference, the new subpart F would automatically update if those concentration values change in the standards under SDWA or RCRA and thereby, be self-implementing. Upon promulgation, licensees currently in restoration, stability monitoring or long-term monitoring at a given wellfield at a licensed facility would continue to be held to the standard(s) in place at the time of licensing for those given wellfield(s), unless the regulatory agency determines otherwise. Operating wellfields, new wellfields and expansions of wellfields would be required to meet the newly promulgated standards. This option would make the groundwater protection standards under the proposed subpart consistent with all relevant current and future standards under SDWA and RCRA. We believe that this approach will more effectively keep the groundwater protection standards current with the Agency's policies while providing for regulatory certainty. The standards in the existing portion of 40 CFR part 192 are outdated for arsenic and uranium, both of which have had new MCLs established since the year 2000.[58] Today's proposal would update the standards for arsenic and uranium as they apply to ISR facilities. Should the Agency propose to update its MCLs or RCRA standards at some point in the future, stakeholders will have the opportunity to comment on the potential impacts to ISR activities.

We are also considering the alternative approach of placing a static table of restoration goals in the new subpart F. The table would list the 13 required constituents for which groundwater protection standards must be met, and also provide the specific numeric concentration value associated with each constituent. If this option is promulgated in the final rule, the standards would not automatically update with any future changes to standards under the SDWA or RCRA but would remain static. Under this

[51] Hall, Susan (2009). ''Groundwater Restoration at Uranium In-Situ Recovery Mines, South Texas Coastal Plain.'' U.S. Geological Survey.

[52] Darling, Bruce (2008). ''Report on Findings Related to the Restoration of Groundwater at In-Situ Uranium Mines in South Texas.'' Southwest Groundwater Consulting, LLC.

[53] Fettus, G. and M.G. McKinzie (2012). ''Nuclear Fuel's Dirty Beginnings: Environmental Damage and Public Health Risks from Uranium Mining in the American West.'' Natural Resources Defense Council.

[54] It should be noted that we are not proposing to establish specific requirements related to the technical aspects of groundwater restoration (*i.e.,* what methods to use for restoration or which statistical methods to use for assessing temporal stability of the groundwater chemical state).

[55] 40 CFR 264.94, Table 1.

[56] 47 FR 32285, July 26, 1982. The use of MCLs as standards for groundwater protection anticipated the Agency's Ground Water Protection Strategy, first developed in 1984 and updated in 1991. Under the Strategy, MCLs provide a benchmark for groundwater protection. Contamination of groundwater above MCLs is viewed as a failure of pollution prevention.

[57] Endrin, lindane, methoxychlor, toxaphene, 2,4–D, and 2,4,5–TP Silvex. These constituents are unlikely to be present at ISR sites.

[58] 66 FR 6976, January 22, 2001; and 65 FR 76708, December 7, 2000, respectively.

approach, the Agency would initiate future changes to standards through a notice-and-comment rulemaking specifically for 40 CFR part 192.

In order for an ISR operation to proceed, a UIC permit is required and typically, an aquifer exemption is needed as well. The exemption effectively removes from the protection of the SDWA, an aquifer or portion of an aquifer that would otherwise meet the definition of an underground source of drinking water. The wellfield used by the ISR operation to extract the uranium deposit may constitute only a portion of the overall exempted area. As noted in Section II.E.1 of this document, there is no similar exemption for the aquifer from the requirements of UMTRCA, nor does UMTRCA contemplate such a concept. We emphasize again that the SDWA-based aquifer exemption does not relieve the operator of an ISR facility of the obligation to remediate environmental contamination resulting from activities regulated under UMTRCA, both within and outside the exempted portion of the aquifer.

2. Alternate Concentration Limits (ACLS)

Consistent with RCRA, EPA currently allows the use of ACLs if the operator is unable to restore groundwater to either preoperational background conditions/concentration levels or the applicable restoration goals. Today we propose to clarify the requirements for requesting and granting ACLs in the production zone, after restoration efforts have taken place. While the 19 criteria to be considered in granting ACLs are spelled out for Title II sites in 40 CFR 192.32(a)(2)(iv) through incorporation of 40 CFR 264.94(b), they have not always been implemented as intended.[59] [60] In the past, NRC and Agreement States have issued secondary class-of-use restoration goals at ISR sites, but these goals were typically less restrictive than meeting background concentration levels.[61] NRC no longer recognizes class-of-use as an appropriate standard for restoration of groundwater at uranium ISR facilities;[62] secondary class-of-use restoration goals are inconsistent with the requirements of 40 CFR part 192 and 10 CFR part 40, Appendix A. There is evidence that relaxed restoration standards have been granted in Agreement States,[63] and some instances where ACLs have been identified and approved by the regulator before restoration efforts have been initiated and/or completed.[64] [65] We believe these situations can result in insufficient protection of groundwater; in particular, we believe it only is appropriate to establish restoration goals based on a thorough characterization of the preoperational environment and not to approve ACLs unless it has proven impracticable to achieve or maintain the initial restoration goals or return to background conditions after restoration. With this proposal, we specify the conditions that must be met prior to requesting an ACL and emphasize the factors that must be considered in establishing and approving ACLs. These factors specify that, if ACLs are deemed necessary or appropriate after all best practicable restoration activities have been completed, they must not pose a substantial present or potential hazard to human health or the environment.[66] ACLs can be established for carcinogens and/or non-carcinogens. When considering the potential for health risks caused by human exposure to known or suspected carcinogens, ACLs should, where practicable, be established at concentration levels that represent a cumulative excess lifetime risk to an average individual at no greater than 10^{-4} (one chance in ten thousand).

The regulatory agency may face situations in which the operator will request ACLs. If after extensive effort the operator determines that the initial restoration goals for one or more constituents cannot be achieved as required in the license, the operator may request and the regulatory agency may approve the levels that have been achieved as provisional ACLs and determine that restoration is complete (*i.e.,* that there is no statistically significant trend in the concentrations of regulated species over time). Then, the operator may request and the regulatory agency may approve final ACLs if post-restoration monitoring indicates three consecutive years of stability at the 95 percent confidence level. The approval of final ACLs, however, would not by itself satisfy the requirements for long-term stability monitoring.

In the second case, after restoration is complete, the operator may find that post-restoration monitoring detects increases in the concentration of one or more constituents of concern. Depending on the statistical significance of the increase, the regulatory agency may determine that further attempts at restoration or corrective action are needed. If the situation persists after such action is taken, the regulatory agency may choose to wait and see if the increase levels off (*i.e.,* stabilizes). If stabilization does occur, the operator may request and the regulatory agency may approve final ACLs if post-restoration monitoring indicates three consecutive years of stability at the 95 percent confidence level.

An additional consideration is the potential effect of ACLs on groundwater downgradient of the wellfield. The granting of ACLs could be viewed as inconsistent with the purpose of groundwater restoration, which is to prevent contamination of groundwater resources beyond the production zone. However, NRC has in recent years adopted an approach defining the ''point of exposure'' as the aquifer exemption boundary, where the initial restoration goal must be met. We propose to adopt a similar approach today.[67] This will ensure that the non-

[59] These criteria are also reproduced for Title I sites in 40 CFR 192.02(c)(3)(ii).

[60] EPA (1987). ''Alternate Concentration Limit Guidance, Interim Final,'' provides guidance to RCRA facility permit applicants and writers concerning the establishment of RCRA Alternate Concentration Limits. The guidance lists 19 factors, or criteria, that are used to evaluate ACL requests.

[61] ''Class of use'' designates the potential uses of groundwater based on its quality. For example, groundwater that is not suitable for human consumption may be designated for livestock. Class of use typically encompasses a range of constituent concentration values.

[62] NRC (2009). ''Uranium Recovery Policy Regarding: (1) The process for scheduling licensing reviews of applications for new uranium recovery facilities and (2) the restoration of groundwater at licensed uranium in situ recovery facilities.'' NRC Regulatory Issue Summary 2009–05.

[63] Darling, Bruce (2008). ''Report on Findings Related to the Restoration of Groundwater at In-Situ Uranium Mines in South Texas.'' Southwest Groundwater Consulting, LLC.

[64] Hall, Susan (2009). ''Groundwater Restoration at Uranium In-Situ Recovery Mines, South Texas Coastal Plain.'' U.S. Geological Survey.

[65] Fettus, G. and M.G. McKinzie (2012). ''Nuclear Fuel's Dirty Beginnings: Environmental Damage and Public Health Risks from Uranium Mining in the American West.'' Natural Resources Defense Council.

[66] ''[A] licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this chapter. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a *level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency* in accordance with section 2022 of this title.'' 42 U.S.C. 2114(c), emphasis added.

[67] EPA guidance on application of ACLs under RCRA makes a similar distinction between the ''point of compliance'' and the ''point of exposure,'' emphasizing that in granting ACLs, (1) groundwater plumes should not increase in size or concentration above allowable health or environmental exposure levels; (2) increased property holdings should not

Continued

endangerment condition of the UIC permit will be sustained. We believe the decision to grant an ACL is among the most important that the regulatory agency can make. We believe our proposal appropriately clarifies the situations in which ACLs can be considered and emphasizes the factors that must be considered, thereby making the overall process more rigorous. However, we also recognize that the regulatory agency may need to spend additional effort to evaluate the full record of activities at the site in order to determine whether an ACL is appropriate, and at what level. Because the long-term protectiveness of this decision may not be fully understood until well after site activities conclude and the license is terminated, we encourage the regulatory agency to inform and seek input from the affected public when ACLs are being considered. We believe this request would constitute a license amendment significant enough to warrant an opportunity for public comment, if not public hearings.

C. Adequate Characterization of Groundwater Prior to Uranium Recovery

To design and operate an ISR facility, the chemical composition and hydrology of the groundwater in and around the ore body must first be rigorously characterized. Defining the configuration of the ore zone and designing the production zone for uranium recovery requires detailed subsurface information obtained from geophysical investigations, including but not limited to logs and cores.[68] In addition, the groundwater in the production zone is also characterized to determine the proposed chemical composition of the lixiviant and to determine background groundwater chemistry by which to set restoration goals for the post-production phase of the ISR operation (*i.e.,* the efforts to return the groundwater chemical conditions in the production zone to those that existed prior to the uranium recovery efforts). The preoperational chemical composition of the groundwater in the production zone is called ''baseline'' in practice within the ISR industry and by NRC. In EPA documents and regulations the term ''background'' is used to indicate the original state of groundwater before activities take place that may introduce contamination into the groundwater, such as leakage of contaminants from a surface or near-surface waste disposal cell or an underground source of contamination such as leaking storage tanks or disposal wells.[69]

For the ISR method, there are a number of ''backgrounds'' involved, the most important being the preoperational background within the portion of the ore zone where uranium production will take place (*i.e.,* the production zone). Knowledge of this background is necessary to design the leaching process and set restoration goals—two very important steps in the ISR operation. ''Background'' groundwater composition data are also needed in portions of the aquifer surrounding the wellfield and in overlying and underlying aquifers that may have communication with the uranium ore-bearing aquifer to determine whether excursions occur during operations, and to determine whether seasonal variations in groundwater chemistry are occurring in shallow aquifers. Background data are also needed for geochemical modeling of the groundwater in the production zone and downgradient to support assessments of the natural capacity of the restored production area and downgradient portion of the exempted aquifer to maintain long-term stability of the restored wellfield.

There are spatial and temporal designations for the various ''backgrounds'' measured in relation to an ISR operation. For instance, preoperational background is determined above, below, around and within the wellfield in the exempted aquifer. The preoperational background downgradient of the wellfield and in aquifers above and below the production zone are needed to detect any excursions that may occur during the ISR operational phase or restoration phase. The uses of the various ''backgrounds'' are described in the technical background information document supporting this rulemaking.[70]

NRC requires establishment of background at uranium recovery sites in its regulations at 10 CFR part 40, Appendix A, Criterion 7;[71] most of the implementing requirements are found in guidance and license conditions. Today's proposal includes provisions to ensure that operators adequately characterize preoperational conditions inside and outside the wellfield. This characterization is necessary to establish appropriately protective restoration goals that are representative of the wellfield, accounting for natural variability. There is evidence that regulators and operators have at times used high-end values to represent the overall wellfield or have used a generalized ''class-of-use'' for the groundwater to set restoration goals.[72] We do not believe this is appropriate, as we explain below.

Today's proposal also specifies that the preoperational groundwater monitoring program must account for the effects of well installation and development on the groundwater characteristics. The physical act of penetrating the aquifer to install the well can cause localized changes in constituent concentrations or chemical parameters, which can lead to a misleading picture of background conditions. This can, in turn, result in selection of artificially high restoration goals. It is important that the operator allow a sufficient interval of time between well installation and sampling to allow localized disturbances to dissipate and ensure that background conditions are accurately characterized.

1. Establishing Restoration Goals

The successful protection of groundwater at ISR sites begins with the selection of rigorous and appropriate restoration goals. As described in Section III.B of this preamble, restoration goals will be established as the preoperational background concentration or as a specified regulatory level for that constituent, whichever is higher.

This is more complicated than it might seem. ISR wellfields may cover areas of 10 acres or more, and the presence of mineralized zones often means that there is significant variability within the proposed production area. As a result, background

be used to allow a greater ACL; and (3) ACLs should not be established so as to contaminate off-site groundwater above allowable health or environmental exposure levels. See *http://www.epa.gov/wastes/hazard/correctiveaction/resources/guidance/gw/acl.htm.*

[68] EPA (2014). ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery Sites.''

[69] For example, owners and operators of hazardous waste facilities are required to have a monitoring system that can ''represent the quality of background water that has not been affected by leakage from a regulated unit.'' 40 CFR 264.97(a)(1).

[70] EPA (2014). ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery Sites.''

[71] ''At least one full year prior to any major site construction, a preoperational monitoring program must be conducted to provide complete baseline data on a milling site and its environs. Throughout the construction and operating phases of the mill, an operational monitoring program must be conducted to measure or evaluate compliance with applicable standards and regulations; to evaluate performance of control systems and procedures; to evaluate environmental impacts of operation; and to detect potential long-term effects.''

[72] 12. NRC (2006). ''Status of the Development of Memoranda of Understanding with Nebraska and Wyoming, Regarding the Regulation of Groundwater Protection at Their In Situ Leach Uranium Recovery Facilities.'' SECY–05–0123.

concentrations in one area of the wellfield may diverge significantly from those measured elsewhere. The question, then, is whether it is possible to select a single level that is representative of the entire wellfield and, if not, how measurements should be evaluated.

We stated previously that we do not believe it is appropriate to select among high-end measurements as representative values for restoration. It might be argued, however, that restoring a given well to its preoperational values would be an indication that restoration would be equally successful in the rest of the wellfield. This might be the case at sites where remediation of groundwater is focused on removing a contaminant that has been introduced from outside the system; however, we question the general application of this assumption at ISR sites. As discussed earlier, the initial deposition (precipitation) of uranium mineralization is uneven and alters the porosity and permeability of the host rock. The extraction and restoration processes at ISR sites are imperfect and further alter the distribution of the uranium in the deposit. Flow paths and velocities in local areas are altered as a result of changes in porosity and permeability that occur from the removal of material from pore spaces and later re-precipitation. It is possible that areas of heavy and lighter mineralization or groundwater concentrations can change from the distribution existing before uranium recovery to that after restoration, reflecting the degree to which the oxidizing and reducing agents contact the mineralization. As a result of these changes, ''hot spots'' may be found at wells that initially registered lower constituent concentration measurements, and vice versa.

Because of the site-specific nature of this variability, we are proposing today that operators utilize background measurements from across the wellfield, combined with appropriate statistical techniques, to determine restoration goals. As appropriate, goals may be developed for individual wells, groups of wells, or the entire wellfield. The point(s) of compliance for restoration will be determined by the operator and regulatory agency after a thorough technical evaluation of the operator's geophysical investigation.

D. Excursions

During the operational and restoration phases at an ISR wellfield, it is possible that lixiviant or byproduct fluids can escape the capture zones of the extraction wells and move toward the monitoring well ring surrounding the production zone. The placement of the injection and extraction wells, combined with their relative pumping rates, are designed to prevent such movement,[73] but heterogeneities in the aquifer characteristics and difficulties in maintaining perfect performance of the wellfield can lead to lateral excursions as well as excursions into overlying and underlying aquifers (*i.e.,* vertical excursions). Detecting these excursions is a prime focus of regulatory attention. Indicators of excursions (*e.g.,* increases in concentrations of certain indicator parameters, such as, but not limited to, chloride ion concentrations above the preoperational background) are typically defined in the license conditions, as are requirements for reporting excursions to the regulatory authorities and corrective action requirements once an excursion is detected. The excursion monitoring wells are positioned far enough away from the injection and extraction wells so as to not be affected by the production processes, but close enough to detect excursions in a timely manner. The spacing of wells within the monitoring ring must prevent contaminants from passing between the wells. The excursion monitoring wells should also be far enough from the aquifer exemption boundary to ensure that any necessary corrective action can be taken before a USDW is adversely impacted. We have seen instances where the outer monitoring ring is essentially coincident with the boundary of the exempted aquifer. We do not believe this practice is appropriate. While it may allow the operator to limit the amount of land dedicated to the ISR facility, it provides little margin for error in preventing contaminants from reaching protected aquifers (*i.e.,* USDWs), and may hamper corrective actions should they be needed.

Today we are proposing to adopt a definition of ''excursion'' consistent with that used by NRC in license conditions. Under this definition, an excursion is identified when two or more indicator parameters are measured at levels exceeding their upper control limits (essentially, background levels) at perimeter monitoring wells or in monitoring wells in overlying or underlying aquifers. Thus, an excursion can take place vertically between aquifers as well as horizontally within the aquifer from which uranium is being extracted.

This approach differs somewhat from that taken under RCRA to detect releases of hazardous constituents, so it is important that we distinguish between the two approaches and explain why our proposed approach is more suitable in the ISR context and consistent with law.

Monitoring under RCRA is conducted to detect any evidence that an engineered hazardous waste unit (*e.g.,* a landfill or impoundment) has failed. To that end, the detection monitoring program includes not only indicator parameters that might signal a change in groundwater chemistry or quality, but also hazardous constituents contained in the waste unit.[74] The statistically significant detection of any monitored parameter or constituent triggers further investigation and potentially corrective action. Because the engineered unit has been introduced into the environment and the monitoring takes place at the edge of the unit, it is unlikely that a detection can be attributed to the natural variability in the groundwater at the site. Detection of a single parameter or constituent appropriately triggers action in this case because, in addition to remediating groundwater, the failure of the unit itself must be addressed to prevent further releases.

By contrast, at an ISR site all constituents that may be ''released'' are part of the natural setting, and their presence in groundwater may vary over time. Only the lixiviant is introduced from outside the natural system. Therefore, the ''indicator parameters'' are typically those that most reflect the lixiviant properties. For example, chloride is often incorporated into the lixiviant as a tracer; similarly, because the lixiviant mobilizes uranium by increasing alkalinity, a significant increase in alkalinity at excursion monitoring wells may signal that lixiviant has escaped the production zone extraction wells. Because the lixiviant typically moves more rapidly than the mineral constituents, increases in the properties associated with the lixiviant will most likely be detected well before the other constituents reach the excursion monitoring wells. The presence of these parameters in the natural groundwater accounts for the reliance on detecting two such parameters at levels above their upper control limits to signal an excursion, rather than only one.

We believe this approach to defining excursions (*i.e.,* relying on two indicator parameters) is reasonable and has been shown to be workable in practice. We are also proposing to define ''upper

[73] EPA (2014). ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery Sites.''

[74] See 40 CFR 264.98.

control limit'' consistent with NRC's use of the term. The ''upper control limit'' defines the level of an indicator parameter that, when two of which are detected at excursion monitoring wells, would signal an excursion; as described above, indicator parameters will typically be identified in the facility license.

It is important that the upper control limits be set appropriately to account for both background levels of indicator parameters and the characteristics of the lixiviant. We agree with NRC that ''upper control limit concentrations of the chosen excursion indicators should be set high enough that false positives (false alarms from natural fluctuations in water chemistry) are not a frequent problem, but not so high that significant groundwater quality degradation could occur by the time an excursion is identified.'' [75] We have heard some concerns that upper control limits have in some cases been established at levels that would be unlikely to be exceeded under any conditions, thereby eliminating the possibility of detecting an excursion altogether. Such a situation must be avoided.

Upper control limits can be calculated using various statistical techniques, but are often derived by adding a multiple of the standard deviation to the mean of a distribution. EPA's Unified Guidance [76] covers methods that can be used to develop control limits or prediction limits, which serve a similar function. NRC staff describes its current view of acceptable practice in NUREG–1569 [77]: ''The staff has decided that in areas with good water quality (total dissolved solids less than 500 mg/l), setting the upper control limit at a value of 5 standard deviations above the mean of the measured [background] concentrations is an acceptable approach.'' [78]

The potential for excursions may also be a factor in the facility's decision to stop operations and enter the restoration phase. In some cases, conventional mills may enter a standby period, in which they stop processing ore with the intent to resume operations at some point in the future (the price of uranium is often the decisive factor in these decisions). In some cases, mills have remained on standby for years at a time. For an ISR facility, however, such a ''standby'' period is inappropriate because the migration of constituents mobilized by the prior injection of lixiviant continues even if the decision is made to stop extracting uranium. Excursions beyond the production zone are more likely to occur if the gradient within the wellfield is not maintained. In our view, stopping the extraction cycle must be interpreted as an end to the operational phase and should trigger initiation of the restoration phase. We are interested in stakeholder views on this interpretation.

E. Long-Term Stability Monitoring

Perhaps the most significant aspect of today's proposal involves the actions to be taken by the operator after groundwater restoration is complete. If insufficient monitoring is conducted, either in duration, frequency, or in the number of wells used to sample the wellfield, it is very possible to reach premature conclusions of stability. In such cases, residual lixiviant or localized areas within the production zone that have not stabilized may cause continued mobilization of uranium and other constituents after monitoring is terminated, potentially leading to contamination downgradient or beyond the boundary of the exempted aquifer. Today's proposal contains provisions related both to the duration of the monitoring and to the sufficiency of the data necessary to determine that stability has been achieved.

After the ISR operational phase ends, the altered chemical state has to be returned to the preoperational conditions, to the extent possible, so that uranium and other contaminants do not migrate outside the wellfield. Treatments to re-establish chemically reducing conditions (which greatly reduce the uranium concentration in the ore zone groundwater) can restore groundwater constituents to preoperational background levels to a large extent, although experience has shown that restoration of all constituents to the preoperational background level is seldom 100 percent successful.[79] In addition, the chemically reducing conditions initially present, and the mechanisms that maintained these conditions originally, may not be restored sufficiently to persist over the long-term. Re-oxidation of treated groundwater-host rock systems in other situations has been observed, and post-restoration monitoring at ISR locations has historically been relatively short, typically six months to periods of no more than a few years. A slow re-oxidation process with the resulting potential for enhanced migration of uranium and other contaminants may not be detected during a relatively short post-restoration monitoring period. Such an event could occur if the oxidizing agents in the lixiviant significantly removed the reducing agents originally present in the ore zone (*e.g.,* organic material and iron sulfide minerals) that were responsible for sequestering the uranium to form the ore deposit in the first place. Over time, naturally oxygenated waters entering the ore zone from up gradient could re-oxidize the uranium removed from solution during the restoration process, mobilizing it once again and transporting it downgradient beyond the wellfield. To determine whether a trend of increased concentrations is occurring, it is necessary to monitor over long periods of time and use statistical techniques to analyze the data. This is particularly important if the trend in increased concentrations is relatively slow and the natural variability in the well samples is relatively high. These difficulties point to the need for longer post-restoration monitoring periods than historically performed. However, as discussed earlier, the choice of appropriate statistical techniques to determine the presence or absence of trends in monitoring data can be complicated by shortcomings in the monitoring database, such as missing measurements, ''nondetects,'' analytical errors and other causes that are difficult to avoid in practice for long timeframe monitoring efforts.[80] We have considered several options for the length of the long-term stability monitoring period as described below.

1. Thirty-Year Long-Term Stability Monitoring Period, With Provisions for Shortening That Time Period

The initial part of our proposal for long-term stability monitoring addresses the duration of monitoring. Specifically, we are proposing that a facility must demonstrate three consecutive years of stability monitoring and then maintain long-term stability monitoring for an additional period of 30 years; this timeframe can be shortened by demonstrating long-term geochemical stability through modeling, as described below. In determining the appropriate length of long-term stability monitoring to provide confidence that the restored wellfield conditions will remain stable over time, and considering our statutory direction for consistency with RCRA

[75] See NRC (2003). ''Standard Review Plan for In Situ Leach Uranium Extraction License Applications.'' NUREG–1569, page 5–40.

[76] EPA (2009). ''Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities—Unified Guidance.''

[77] NRC (2003). ''Standard Review Plan for In Situ Leach Uranium Extraction License Applications.'' NUREG–1569.

[78] Ibid, page 5–41.

[79] EPA (2014). ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery Sites.''

[80] Ibid.

requirements, we find that some direction can indeed be found in the RCRA regulatory framework. For RCRA hazardous waste disposal facilities, a post-closure monitoring period of thirty years is required before permit termination can occur.[81] Since an engineered RCRA disposal facility for the containment of chemically hazardous waste is similar in concept to relying upon a chemically treated ISR wellfield to contain the potential spread of contaminants, we believe it is reasonable to conclude that a thirty-year long-term stability monitoring period for ISR activities is a consistent application of RCRA requirements. We have examined various statistical techniques for determining the presence or absence of trends in monitoring data, under assumed levels of natural variability and extent of trending, and concluded that, under reasonable values for these variables, a thirty-year monitoring period is a reasonable length of time to detect upward trends in constituent concentrations.[82]

We recognize that a thirty-year monitoring period would be significantly longer than current practice and that stability may be achieved in a shorter timeframe. Therefore, we are also proposing a provision that would allow the regulatory agency to shorten the monitoring period [83] if the operator can both demonstrate geochemical stability through monitoring and support a conclusion of long-term stability through geochemical modeling. We believe that modeling, which can provide confidence that a geochemical environment exists to prevent uranium and other constituents from re-mobilizing, is an important element of any decision to shorten the monitoring period. Further, we believe this provision will encourage operators to expend more effort in preoperational site characterization, which will improve their modeling efforts.[84]

We are proposing that three consecutive years of stability be demonstrated through monitoring as a prerequisite before the modeling would be considered as justification for reducing the monitoring period. The three-year stability demonstration begins when sufficient monitoring data have been collected to allow a showing of statistical significance at a specified level of confidence. This three-year demonstration period has its roots in the RCRA framework, where it is a metric for the success of corrective action after groundwater contamination has been detected.[85] We also see this situation as analogous to the restoration of the ISR wellfield. Stability would be demonstrated statistically at the 95 percent confidence level, which we believe will help to ensure that operators collect data of sufficient quantity to support regulatory judgments. Stability would be demonstrated using statistical tests with sufficient power to detect trends with a false negative rate no higher than 5 percent. We believe this will ensure that operators collect data of sufficient quantity and quality with adequate power to support regulatory judgments. As noted in Section II.E.2 of this document, a 95 percent confidence threshold can also be found in the RCRA monitoring program.

2. What Other Options Did EPA Consider For the Long-Term Stability Monitoring Period?

In addition to the option described above, EPA considered two alternatives related to the duration of long-term stability monitoring. We are interested in receiving comments and data on all three options described.

a. Required Thirty-Year Long-Term Stability Monitoring Period

The second option we considered also relies on the RCRA regulatory framework. In this alternative, no provision for shortening the long-term stability monitoring time frame is permitted; thirty years of groundwater monitoring is required. This alternative provides a significant increase in the monitoring period over current industry practice, and the extended time would provide added confidence that the restored wellfield chemistry is remaining stable through this period of time. Thirty years of consistent statistical performance (*i.e.,* no upward trending) would provide strong support for concluding that groundwater systems will remain in a chemically reduced state over time. If upward trending of contaminant concentrations was observed during the monitoring period under this approach, the operator would be required to perform additional corrective action, after which the monitoring period would begin again. We ultimately decided not to pursue this option because it does not sufficiently recognize the site-specific aspects of aquifer restoration or give operators the incentive to reach license termination sooner by conducting geochemical modeling.

b. Narrative Standard With No Fixed Monitoring Period

We also considered the option of a performance-based standard without explicitly calling for a long-term monitoring period. We considered requiring that two conditions be met (*i.e.,* return of the physical hydrologic system to a condition similar to the preoperational flow regime and stability of the geochemical environment) before license termination. To meet the first condition, return of the physical hydrologic system, no significant residual influences from the injection-extraction restoration cycle could remain after restoration. This would include conditions such as hydraulic head and flow direction. Depending on the site, this would likely take many months and perhaps a year or more. To meet the second condition, stability of the geochemical environment, the operator would have to show that the groundwater chemistry is statistically stable at a 95 percent confidence level for a duration of time sufficient to account for site conditions. These site conditions would include such things as variability of constituents in the wellfield, groundwater velocity, constituent travel times and any seasonal influences. We expect it to take at least several years to collect data sufficient to achieve the 95 percent confidence level. With this approach, the regulatory agency would have maximum flexibility in determining whether to establish general

[81] See 40 CFR 264.117(a)(1).

[82] EPA (2014). ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery Sites.''

[83] This decision authority is also present in RCRA regulations: ''. . . any time during the post-closure period for a particular unit, the Regional Administrator may . . . shorten the post-closure care period applicable to the hazardous waste management unit. . . if he finds that the reduced period is sufficient to protect human health and the environment . . .'' 40 CFR 264.117(a)(2).

[84] The Agency recently took a similar approach in defining the post-injection monitoring timeframe applicable to Class VI wells used for carbon dioxide geologic sequestration. Owners or operators of Class VI injection wells are required to monitor for at least 50 years after the cessation of injection, unless an alternative timeframe is approved. Further, the monitoring period can be shortened if it can be demonstrated, based on monitoring and other site-specific data, that the project no longer poses an endangerment to USDWs. See 40 CFR 146.93(b).

[85] ''If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in paragraph (a) of this section, the compliance period is extended until the owner or operator can demonstrate that the ground-water protection standard of § 264.92 has not been exceeded for a period of three consecutive years.'' 40 CFR 26.96(c). ''The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground-water monitoring program under paragraph (d) of this section, that the ground-water protection standard of § 264.92 has not been exceeded for three consecutive years.'' 40 CFR 264.100(f).

requirements or approach each site on an individual basis.

Ultimately, we decided against this approach for several reasons. Statistical analyses alone, without the added requirement of long-term monitoring or the option of geochemical modeling, would provide no assurance that groundwater systems will remain in a chemically reduced state over a longer time frame than that used for data collection. Furthermore, this option does not incorporate RCRA's thirty-year post-closure period. As previously stated, UMTRCA requires that generally applicable standards promulgated under its authority by EPA for non-radiological hazards be consistent with the standards issued under Subtitle C of RCRA. Based on these two reasons, we feel that this approach has greater potential for premature termination of the license. Furthermore, ambiguity in the narrative nature of such standards has the potential to provoke litigation and make implementation difficult.

3. How will groundwater stability be determined?

The success of a groundwater restoration effort will be measured ultimately not only by whether the restoration goals are achieved, but also by whether those levels can persist and the geochemistry of the groundwater remain stable in the long term. The primary intent of the restoration effort is to return the chemical condition of the groundwater in the production zone to the state that existed prior to the initiation of the ISR operations; restoring the hydrologic regime is also important. The persistence in time (*i.e.,* stability) of the chemical condition developed during restoration is the ultimate measure of success for the aquifer restoration effort. We define stability as the state in which the concentrations of the constituents in the groundwater remain relatively constant over time, with no significant upward trending. The key factor in determining stability, then, is developing a meaningful measure by which to determine whether trending is occurring. Such a measure must address the sufficiency of the data collected, both over time and in its spatial distribution within the wellfield. We discussed the proposed monitoring timeframes in the previous section. The remainder of this section describes how we propose to determine whether groundwater chemistry is stable and where we propose to apply this method.

a. What do we propose for determining stability?

There are some similarities between a hazardous waste land disposal situation and an ISR operation that allow us to draw on the RCRA experience for developing standards. Both the RCRA disposal technology and the post-operation aquifer restoration efforts for an ISR operation are intended to prevent contaminants from migrating in the environment. However, there are some differences that apply to developing ISR standards. An ISR production zone differs from a hazardous waste disposal situation in that the contaminants of potential concern (largely uranium and radium) were present at significant levels entrained within the host rock of the aquifer before ISR operations began and will still be present, to some extent, in the groundwater after the aquifer restoration effort has ended; the process will not completely remove them. The concentrations of contaminants of potential concern are subject to natural temporal variations both before and after ISR operations, and this variability must be taken into consideration in setting standards for judging the adequacy of aquifer restoration. Because of this natural variability, repeated sampling of the post-restoration groundwater must be done to judge the adequacy of the restoration process. To assess when the chemical condition in the wellfield groundwater has become stable, statistical measures and analyses are necessary for examining temporal variations in the water composition data collected over a period of time. Today we are proposing to establish a statistical level of confidence as the standard for determining stability of post-restoration groundwater. We believe this is a relatively simple and straightforward way to represent the level of rigor we believe is necessary to conclude that concentrations of important constituents in the groundwater are not increasing significantly over time.

Determining when groundwater compositions have achieved temporal stability will be a site-specific decision, dependent on the natural variability at the site, which is in turn dependent on many site-specific factors (*e.g.,* spatial variations in uranium mineral distribution within the aquifer, variations in other chemical constituents that affect uranium dissolution), the frequency of sample collection, and the magnitude of any trends in composition that may be present relative to the magnitude of natural variability. Chapter 7 of the technical background information document supporting this rulemaking discusses these aspects of stability monitoring in much greater detail and illustrates the relationships between sampling frequency and data trends with time.[86] Because of the site-specific interplay between the variables that affect stability, we are not proposing to specify what statistical methods the operator should use to make this determination. There are a variety of methods available that could prove appropriate given the specific conditions at each site. These would include both parametric and non-parametric methods. We recommend that readers consult EPA's ''Statistical Analysis of Groundwater Monitoring Data at RCRA Facilities—Unified Guidance'' (2009), which provides exhaustive discussion of methods that have been considered for use in the RCRA program. Further discussion of statistical methods for determining trends in groundwater data may also be found in EPA's technical background information document, which was prepared to support this proposal.[87] We emphasize that the choice of statistical method must be based on the quantity and quality of the available data and must be justified accordingly to the implementing regulatory agency.

The intent of the statistical analysis of groundwater monitoring data is to avoid a situation where a wellfield that is unstable is judged to have reached temporal and spatial stability. An appropriate statistical analysis will help to ensure that the regulatory decision reflects a high degree of confidence in the interpretation of the monitoring data. We are proposing that a statistical confidence level of upper 95 percent confidence limit be used to determine stability over time. This level of confidence is often used in regulatory applications, including in the RCRA groundwater monitoring framework.[88] We believe that an equivalent level of confidence, and its implications for sampling and analysis of groundwater composition data, is appropriate for consistency with RCRA approaches and requirements and the statutory direction applicable to this rulemaking. We believe a confidence level of this rigor will make it necessary for operators to collect an appropriate amount of data that clearly demonstrates that the restored ISR aquifer is geochemically stable and that UMTRCA requirements have been met. The frequency of

[86] EPA (2014). ''Considerations Related to Post Closure Monitoring of Uranium In-Situ Leach/In-Situ Recovery Sites.''

[87] *Ibid.*

[88] See 40 CFR 264.97(h) & (i).

sampling that will provide meaningful data must be determined from site-specific conditions, such as groundwater flow rates. Another consideration is that stability sampling may be misleading if the operator has not allowed sufficient time for the natural system to recover to the point where the injection-extraction cycle is no longer influencing groundwater flow parameters in the wellfield, particularly in the immediate area around the monitoring wells.

b. Where will the determination of stability be made?

We have noted that a restored ISR wellfield essentially functions as a RCRA hazardous waste management unit. In this sense, when restoration is completed successfully, and the chemistry of the groundwater has been returned to a reducing environment, the uranium and other constituents that were mobilized are essentially ''locked in'' to the subsurface, as are hazardous constituents that are contained by RCRA engineered units. Following this reasoning, it might be considered appropriate for the outer boundary of the restored ISR wellfield to be designated as the point of compliance with the groundwater standards. However, we are not proposing to take this approach.

Today we are proposing that each well within the wellfield be considered for use as a point of compliance for purposes of determining stability after restoration is determined to be complete (note that today's proposal does not address the point of compliance for the regulatory agency's determination that restoration is complete, which may be a more complicated matter). We believe that this is appropriate given the size of some wellfields (on the order of hundreds of acres) and the significant variability that is typically present in the mineralized zone. We believe such an approach will more readily inform both the operator and regulatory agency of localized trending, which may then be remedied as appropriate. If the licensee is able to demonstrate that a particular well is sufficiently representative of groundwater conditions in a larger area, the regulatory agency may approve the use of one well to demonstrate stability in the area covered by a larger number of wells.

F. Institutional Control

Institutional controls are intended to maintain long-term cognizance of the nature and location of particular activities that were done at a specific site, in this case the location of the uranium ore zone exploited by an ISR process. Institutional controls can prevent inadvertent intrusions or adverse consequences for future use of the site. Institutional controls are commonly described as active or passive. Active controls are measures such as guards and fences posted around a site. Passive controls could be the erection of signs or placards at a site.

We are not proposing to establish institutional controls for ISR facilities. Active maintenance of the site will cease with the termination of the license, which will occur when the regulatory agency determines that all license conditions have been met. In this sense, we do not view the long-term stability monitoring period as an institutional control following the ISR restoration phase; rather, we view it as a period of active surveillance to determine the long-term success of the restoration effort.

Nor are we proposing to establish passive controls, either at the site or in documents such as local land records. Requirements for survey plats or other records to be maintained would be consistent with RCRA requirements for hazardous waste facilities; however, these typically apply when waste management units remain at the site and are intended to restrict disturbance of the site.[89] Though we are not proposing that such records be established for ISR sites, we strongly encourage NRC and Agreement States to include such provisions in ISR licenses since ISR sites will not be restricted from sale or further development. Such provisions could simply inform the subsequent owner of the previous ISR, groundwater restoration activities and aquifer exemption on the property.

G. Other Proposed Amendments

EPA has identified several non-ISR related provisions within 40 CFR part 192 that should be updated and amended. The issues that we propose to address today include:

- Amending § 192.32 to address a ruling of the Tenth Circuit Court of Appeals;
- Deleting reference to Grand Junction Remedial Action Criteria (10 CFR 712) at § 192.20(b)(3) since the criteria have been removed from the Code of Federal Regulations (CFR); and
- Correcting minor typographical and grammatical errors found in §§ 192.31 and 192.32.

1. Judicial Decisions

Section 192.32 has been affected by a ruling from the Tenth Circuit Court of Appeals. Under § 192.32(a)(2)(v), NRC was required to obtain EPA concurrence for approval of ACLs in groundwater restoration. This provision was effectively struck down by the Tenth Circuit Court of Appeals in *Environmental Defense Fund* v. *U.S. Nuclear Regulatory Commission,* 866 F.2d 1263, 1268–1269 (10th Cir. 1989), when the Court ruled that NRC has authority under AEA section 84(c) to independently make these site-specific ACL determinations, and that NRC has no duty to obtain this EPA concurrence. Therefore, today we are proposing to revise 40 CFR 192.32(a)(2)(v) by deleting this EPA concurrence requirement.

2. Miscellaneous Updates and Corrections

EPA is proposing an amendment to address an area of part 192 where reference is made to another environmental regulation that has since been removed from the CFR. EPA is also proposing several technical corrections to address known typographical and grammatical errors.

a. Outdated Cross-Reference

Section 192.20(b)(3) refers to criteria that no longer exist in the CFR. Because of this, EPA is proposing to eliminate reference to the Grand Junction Remedial Action Criteria, which once existed at 10 CFR part 712.

In addition, language in § 192.20(b)(3) cites methods that did not prove effective during the Grand Junction Remedial Action Program.[90] The final report for the program clearly states that filtration (by high efficiency filters or by electrostatic precipitators) and sealants (mainly epoxy-based resins) were not effective over the long term, and were not recommended as remedial options for radon mitigation.[91] EPA proposes to eliminate the language referencing sealants and filtration.

b. Technical Corrections

Since promulgation of 40 CFR part 192, several typographical and grammatical errors have been identified. Today, EPA is proposing amendments in §§ 192.31(a), 192.31(f) and 192.32(a)(2)(v) to address these technical errors (*e.g.,* spelling mistakes, misplaced comma).

[89] See 40 CFR 264.116 and 264.119.

[90] In 1972, Public Law 92–314 created the Grand Junction Remedial Action Program to reduce radiation exposures inside structures affected by uranium tailings. The U.S. Surgeon General published cleanup guidelines for the voluntary project.

[91] Colorado Department of Health (1989). ''Final Report on the Grand Junction Remedial Action Program.''

V. Summary of Environmental, Cost and Economic Impacts

A. What are the impacts to groundwater?

EPA has conducted a qualitative assessment of the benefits of the proposed rule and the expected effects on human and environmental health.[92] The rule would require thorough characterization of background groundwater conditions within the ore zone and surrounding aquifers, and would put in place an automatic updating feature so that the requirements affecting ISR operations are always consistent with requirements of the SDWA and the RCRA. The proposed rule would also require a longer period of monitoring, 30 years, to ensure that conditions in the exempted aquifer had been restored, achieved steady-state and remain stable. Further, EPA allows facilities to use geochemical modeling to demonstrate that groundwater conditions will remain stable, and thereby reduce the duration of stability monitoring to less than 30 years. These provisions help to ensure that, after the ISR operation's license is terminated and the site is closed, groundwater conditions do not deteriorate. Since a closed ISR facility has no regulatory oversight, EPA expects that the improved monitoring program being proposed will reduce the risk of contaminating valuable groundwater resources, thus also reducing unintended exposure of human and ecological receptors to radiological and non-radiological constituents in groundwater. To the extent that such exposures are reduced, associated human health risks such as cancer may also be reduced.

Groundwater is a valuable resource, particularly in the Western United States where uranium ISR is most common. Although EPA is unable to quantify the value of the groundwater resources that would be protected by the proposed rule, EPA nevertheless believes that the groundwater resources are likely to become more valuable over time. Reducing the risk of contamination of groundwater also protects surface water bodies to which affected aquifers discharge. If groundwater near an ISR facility were to become contaminated due to re-mobilization of uranium and other constituents, it might be many years before the contamination was discovered, especially under current practice where stability monitoring only lasts a year or two. Benefits associated with protecting other potential services provided by groundwater are also expected.[93]

B. What are the benefits of avoiding impacts to groundwater?

In order to illustrate the potential benefits of avoiding impacts to groundwater, EPA estimated the costs of corrective action that would be required if uranium and other constituents remobilized in groundwater over time, resulting in contamination.[94] By preventing groundwater contamination (or causing it to be discovered sooner), the proposed rule reduces the corrective action costs incurred to remediate the contamination. Based on groundwater contamination simulations (using a model facility approach under varying assumptions), the cost of remediation would far exceed the costs of complying with the proposed rule, both on an annual and total basis. Using a hydrological model, EPA estimated that cleaning up the plume of contamination could require 100 years of pump and treat remediation. In addition, if contamination were detected after decommissioning of a site, it is possible that the costs of remediation would be borne by the taxpayer or by the owner of the property, rather than by the uranium company responsible. Because we cannot anticipate how many ISR operations might experience deteriorating groundwater conditions after decommissioning or how long it would be before the contamination would be detected, EPA was unable to estimate potential avoided costs of remediation on a national scale. However, EPA believes they could be substantial.

C. What are the cost impacts?

Using information about the uranium extraction industry and estimated incremental costs that would result from the rule as proposed today, EPA examined the economic impacts that may result from the revisions to 40 CFR part 192.[95]

EPA's study estimates that affected ISR operators would incur costs to comply with the proposed rule, which would require comprehensive pre-operational characterization of the site (including characterization of geochemical conditions downgradient of the production zone), careful monitoring during the operation, restoration of groundwater quality, at least three years of stability monitoring, and 30 years of long-term stability monitoring, with the potential to shorten the duration based on modeling and monitoring of downgradient geochemical conditions. Using existing ISR operations as models for ISR operations that would be affected by the rule, projecting that 2015 ISR uranium production will be 9.5 million pounds, and using average estimated costs of complying with the proposed rule, EPA estimates that the proposed rule would increase the average cost of uranium production at ISR facilities by approximately $1.50 per pound of uranium (2.9%), and that annual costs incurred by individual ISR facilities would vary from $304,000 to $9.5 million, depending on the scale of the ISR facility. Nationally, EPA estimates that the incremental total annual cost of the proposed rule would be approximately $13.5 million. Discounted at 7%, the estimated present value of the stream of national costs would be approximately $181 million. Discounted at 3%, the estimated present value of national costs would be approximately $290 million.

EPA estimated the impact of the proposed rule on the market for uranium using a simplified model of the U.S. market for uranium in 2015. The partial equilibrium model estimated market impacts and revealed: (a) Changes in the quantity of uranium purchased by U.S. civilian owners and operators of nuclear power plants, (b) changes in the domestic sales of uranium and imports, and (c) changes in the market price for uranium. EPA found that overall, the market quantity of uranium purchased for use in electric generation would decline by less than 0.1% and the market price would increase by approximately 0.4%. Domestic ISR facilities would decrease their production by approximately 3.8%, and imports of uranium would increase by less than 1%. Because the cost of uranium is a very small share of

[92] See EPA (2014). ''Economic Analysis: Proposed Revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings Rule (40 CFR part 192).'' This document which can be found in the docket for this proposed rule. (Docket EPA–HQ–OAR–2012–0788).

[93] See Committee on Valuing Ground Water, National Research Council (1997), ''Valuing Ground Water: Economic Concepts and Approaches,'' which discusses both the extraction value (*e.g.,* value of groundwater used for drinking water, industrial water supply, and agriculture) and the value of in situ services (*e.g.,* buffer against periodic shortages in surface water supplies, protect water quality by maintaining the capacity to dilute and assimilate groundwater contaminants, etc.).

[94] See EPA (2014). ''Economic Analysis: Proposed Revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings Rule (40 CFR part 192).''

[95] EPA (2014). ''Economic Analysis: Proposed Revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings Rule (40 CFR part 192).''

the cost of electricity, EPA estimates that the cost of generating electricity would increase by less than 0.1%. Although the national total annual cost of the proposed rule (approximately $13.5 million, based on average costs) is well below the $100 million threshold that is one of the criteria used to identify a significant regulatory action, the industry has only a small number of companies operating a small number of ISR operations. EPA used existing ISR operations and the companies that own them as models for the types of facilities and companies that would potentially be affected by the proposed rule. EPA thus estimated that individual ISR facilities could incur annual costs of compliance between $304,000 and $9.5 million, depending on the characteristics of the ISR facility and the costing assumptions used.[96] For small firms owning ISR facilities, EPA's analysis estimates cost-to-sales ratios of 0.6% to 1.7%. Because costs are generally less than 2% of company sales, EPA estimates that compliance costs would not cause a significant impact. Further, EPA estimates that only a few small businesses (ten or fewer, based on current information) would be affected by the proposed rule at a given time. Thus, EPA concludes that the rule would not have a significant impact on a substantial number of small entities.

VI. Statutory and Executive Orders Review

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may ''raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.;* no reporting requirements are imposed on affected facilities by this rule. This rule will not in-and-of itself create any new information collection requirements that require approval of the OMB.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business whose company has less than 500 employees and is primarily engaged in leaching or beneficiation of uranium, radium or vanadium ores as defined by NAIC code 212291; (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. Of these three categories, only small businesses are potentially affected by the proposed rule; no small organizations or small governmental entities have been identified that would be impacted by the proposed revisions to part 192.

This proposed rule is estimated to impact approximately 18 uranium recovery facilities that are currently operating or may operate in the near future. The 18 uranium recovery facilities are owned by 10 firms, of which eight are believed to be small.

The proposed revisions to 40 CFR part 192 would apply to the six ISRs operating in 2013. These ISRs are as follows: (1) Crow Butte (Nebraska) and (2) Smith Ranch-Highland (Wyoming), owned by Cameco Resources; (3) Alta Mesa (Texas), owned by Mestena Uranium, LLC; (4) Willow Creek (Wyoming), owned by Uranium One, Inc.; (5) Hobson-La Palangana (Texas), owned by Uranium Energy Corp.; and(6) Lost Creek(Wyoming), owned by Ur-Energy Inc. Using the fewer than 500 employees' criterion Mestena Uranium, LLC, Ur-Energy, Inc., and Uranium Energy Corp. qualify as small businesses, while Cameco Resources and Uranium One, Inc. are both large businesses.

In addition to the six ISRs operating in 2013, an additional ISR has been licensed in the state of Wyoming: Nichols Ranch, owned by Uranerz Uranium Corp. Uranerz Uranium Corp. qualifies as small business.

Eleven other ISRs are at some stage of licensing or permitting, or are undergoing restoration. These include: (1) Dewey-Burdock in South Dakota owned by Powertech Uranium Corp.; (2) Moore Ranch in Wyoming, owned by Uranium One, Inc.; (3) Kingsville Dome, (4) Rosita, and (5) Vasquez, all in Texas and owned by Uranium Resources Inc.; (6) Crownpoint and (7) Church Rock, both in New Mexico and owned by Uranium Resources Inc.; (8) Ross in Wyoming, owned by Strata Energy, Inc., (9) Goliad in Texas, owned by Uranium Energy Corp.; (10) Antelope-Jab in Wyoming, owned by Uranium One, Inc., and (11) Reno Creek in Wyoming, owned by Bayswater E&P. All of these companies, except for Uranium One, Inc., are small businesses.

To evaluate the significance of the economic impacts of the proposed revisions to 40 CFR part 192, EPA estimated the costs that would be incurred by existing facilities, based on their estimated production and EPA's estimated cost per pound of U3O8.

[96] See sensitivity analysis results in Table D–1 of EPA (2014). ''Economic Analysis: Proposed Revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings Rule (40 CFR part 192).'' The total estimated wellfield acreage for most ISR operations is under 500 acres (see Table 3–7 of EPA EA(2014). ''Economic Analysis: Proposed Revisions to the Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings Rule (40 CFR part 192).''

Of the 18 ISR facilities identified above, 13 are owned by a total of eight small businesses; the other five are owned by two large businesses. EPA's economic impact analysis estimated that for the three small firms currently operating ISR facilities, costs of the proposed rule would range from 0.6% to 1.7% of estimated company sales, depending on the costing assumption used. Because the costs are generally estimated to be less than 2% of sales, impacts for these firms would not be significant. In addition, fewer than 10 small firms are likely to be affected by the proposed rule at any time, so the number of firms potentially incurring costs to comply with the rule is not a substantial number. Thus, EPA concludes that the proposed rule would not result in a significant impact to a substantial number of small entities.

No small organizations or small governmental entities have been identified that would be impacted by the proposed revisions to 40 CFR part 192. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year. Using the six ISR operations operating in 2013 as examples of typical ISR facilities, EPA estimates that total annual costs of complying with the rule for six such ISR facilities, would be $13.5 million. The proposed rule imposes no enforceable duties on any State, local or Tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements or obligations that might significantly or uniquely affect small governments; the rule does not contain requirements that apply to such governments nor does it impose obligations upon them.

E. Executive Order 13132: Federalism

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the facilities subject to this action are owned and operated by State governments, and nothing in the proposed rule will supersede State regulations. Thus, Executive Order 13132 does not apply to this proposed rule.

EPA recognizes that Agreement States will have a substantial interest in this rule revision since they have primary responsibility for implementation of 40 CFR part 192 standards. In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The action imposes requirements on licensees of ISR facilities and not tribal governments. Although Executive Order 13175 does not apply to this action, EPA sought opportunities to provide information to tribes and tribal representatives during the review of 40 CFR part 192. EPA specifically solicits additional comment on this proposed action from tribal officials.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. Because this action addresses environmental standards intended to mitigate health or safety risks, it is subject to Executive Order 13045. We evaluated several regulatory strategies for assuring groundwater restoration and stability at ISR facilities and selected the option providing most assurance that groundwater systems will remain in a chemically reduced state, thereby limiting contamination of groundwater. The proposed rule is expected to reduce children's risk of exposure to contaminated groundwater by improving monitoring to detect and correct contamination.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This proposed rule will not adversely directly affect productivity, competition, or prices in the energy sector.

I. National Technology Transfer and Advancement Act

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

This proposed rulemaking does not involve technical standards of the type indicated in NTTAA. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629, Feb. 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.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any

disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This proposed rule addresses groundwater restoration, monitoring and protection of surrounding aquifers and thus decreases the potential groundwater contamination to which all affected populations are exposed. Thus, the proposed rule is projected to have positive, not adverse impacts on human health and the environment.

List of Subjects in 40 CFR Part 192

Environmental protection, Hazardous substances, Radiation protection, Radioactive materials, Reclamation, Uranium, Waste treatment and disposal, Water resources.

Dated: December 31, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend title 40, Chapter I of the Code of Federal Regulations as follows:

PART 192—[AMENDED]

■ 1. The authority citation for 40 CFR part 192 continues to read as follows:

Authority: Sec. 275 of the Atomic Energy Act of 1954, 42 U.S.C. 2022, as added by the Uranium Mill Tailings Radiation Control Act of 1978, Pub. L. 95–604, as amended.

■ 2. Section 192.20 is amended by revising paragraph (b)(3)as follows:

Subpart C—[Amended]

§ 192.20 Guidance for implementation.

* * * * *

(b) * * *

(3) Compliance with § 192.12(b) may be demonstrated by methods that the Department of Energy has approved for use or methods that the implementing agencies determine are adequate. Residual radioactive materials should be removed from buildings exceeding 0.03 WL so that future replacement buildings will not pose a hazard [unless removal is not practical—see § 192.21(c)]. However, ventilation devices and other radon mitigation methods recommended by EPA may provide reasonable assurance of reductions from 0.03 WL to below 0.02 WL. In unusual cases, indoor radiation may exceed the levels specified in § 192.12(b) due to sources other than residual radioactive materials. Remedial actions are not required in order to comply with the standard when there is reasonable assurance that residual radioactive materials are not the cause of such an excess.

* * * * *

Subpart D—[Amended]

■ 3. The heading for Subpart D is amended by revising the language to read as follows:

Subpart D—Standards for the Management of Uranium Byproduct Materials

■ 4. Section 192.31 is amended by:

■ a. Revising paragraph (a).

■ b. Revising paragraph (f).

■ c. Revising the second sentence of paragraph (m).

The revisions read as follows:

Subpart D—Standards for the Management of Uranium Byproduct Materials

* * * * *

§ 192.31 Definitions and cross-references.

(a) Unless otherwise indicated in this subpart, all terms shall have the same meaning as in Title II of the Uranium Mill Tailings Radiation Control Act of 1978, subparts A and B of this part, or parts 190, 260, 261, and 264 of this chapter. For the purposes of this subpart, the terms ''waste,'' ''hazardous waste,'' and related terms, as used in parts 260, 261, and 264 of this chapter, shall apply to byproduct material.

* * * * *

(f) *Disposal area* means the region within the perimeter of an impoundment or pile containing uranium byproduct materials to which the post-closure requirements of § 192.32(b)(1) of this subpart apply.

* * * * *

(m) * * * This term shall not be construed to include extraordinary measures or techniques that would impose costs that are grossly excessive as measured by practice within the industry or one that is reasonably analogous (such as, by way of illustration only, unreasonable overtime, staffing or transportation requirements, etc., considering normal practice in the industry; laser fusion of soils, etc.), provided there is reasonable progress toward emplacement of a permanent radon barrier. * * *

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■ 5. Section 192.32 is amended by revising paragraph (a)(2)(v) as follows:

§ 192.32 Standards

* * * * *

(a) * * *

(2) * * *

(v) The functions and responsibilities designated in part 264 of this chapter as those of the ''Regional Administrator'' with respect to ''facility permits'' shall be carried out by the regulatory agency.

* * * * *

■ 6. Part 192 is amended by adding subpart F to read as follows:

Subpart F—Public Health, Safety and Environmental Protection Standards for Byproduct Materials Produced by Uranium In-situ Recovery

Sec.
192.50 Applicability.
192.51 Definitions and cross-references.
192.52 Standards.
192.53 Monitoring programs.
192.54 Corrective action program.
192.55 Effective date.

Subpart F—Public Health, Safety and Environmental Protection Standards for Byproduct Materials Produced by Uranium In-Situ Recovery

§ 192.50 Applicability.

This subpart applies to the management of uranium byproduct materials prior to, during and following the processing of uranium ores utilizing uranium in-situ recovery methods, and to the restoration of groundwater at such sites. Unless otherwise specified, all wellfields shall comply with this subpart as of the effective date of this rule.

§ 192.51 Definitions and cross-references.

(a) Unless otherwise indicated in this subpart, all terms shall have the same meaning as in Title II of the Uranium Mill Tailings Radiation Control Act of 1978, subparts A, B, and D of this part, or parts 190, 260, 261, and 264 of this chapter.

(b) *Adjacent Aquifer.* An aquifer or portion of an aquifer that shares a border or end point with the exempted aquifer or the exempted portion of an aquifer.

(c) *Alternate Concentration Limit (ACL).* Concentration limit approved by the regulatory agency for a groundwater constituent that has not been restored to its restoration goal after best practicable restoration activities have been completed following the process prescribed in 40 CFR 192.52(c)(2) thru 192.52(c)(5) of this subpart.

(d) *Aquifer.* A geological ''formation,'' group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring. See 40 CFR 144.3.

(e) *Background.* The condition of groundwater, including the radiological and non-radiological constituent concentrations, in the exempted aquifer, adjacent aquifers, and in both overlying and underlying aquifers, prior to the beginning of ISR operations.

(f) *Constituent.* A detectable component within the groundwater.

(g) *Exceedance.* An exceedance has occurred when, during stability or long-term stability monitoring, a groundwater protection standard is exceeded at any point of compliance well.

(h) *Excursion.* The movement of fluids containing uranium byproduct materials from an ISR production zone into surrounding groundwater. An excursion is considered to have occurred when, during operational or restoration phase monitoring, any two indicator parameters (*e.g.,* chloride, conductivity, total alkalinity) exceed their respective upper control limits in any overlying, underlying, or perimeter monitoring well. Horizontal excursions refer to the lateral movement of the water, while vertical excursions indicate movement of water through aquitards above or below the production zone aquifer.

(i) *Excursion Monitoring Wells.* Wells located around the perimeter of the production zone (horizontal excursion wells) and in overlying and underlying aquifers (vertical excursion wells), which are used to detect any excursions from the production zone. Excursion monitoring wells can serve as the ''point(s) of compliance'' during all phases of ISR.

(j) *Exempted Aquifer.* An ''aquifer,'' or its portion, that meets the criteria of ''underground source of drinking water'' in 40 CFR 144.3, but which has been exempted according to the procedures in 40 CFR 144.7. See 40 CFR 144.3.

(k) *Extraction Well.* Well used to extract uranium enriched solutions from the ore-bearing aquifer; also known as a ''Production Well.'' Extraction and injection wells may be converted from one use to the other.

(l) *Indicator Parameter.* A constituent, such as chloride, conductivity, or total alkalinity, whose ''upper control limit'' is used to identify an excursion. Indicator parameters are not contaminants, but relate to geochemical conditions in groundwater.

(m) *Injection Well.* A well into which fluids are being injected. See 40 CFR 144.3.

(n) *In-Situ Recovery (ISR).* A method of extraction by which uranium is leached from underground ore bodies by the introduction of a solvent solution, called a lixiviant, through injection wells drilled into the ore body. The process does not require the extraction of ore from the ground. The lixiviant is injected, passes through the ore body, mobilizes the uranium, and the uranium-bearing solution is pumped to the surface from extraction wells. The pregnant leach solution is processed to extract the uranium.

(o) *Listed Constituent.* One of the thirteen groundwater constituents specified in Table 1 to subpart F of part 192.

(p) *Lixiviant.* A liquid medium used to recover uranium from underground ore bodies through in-situ recovery. This liquid medium typically contains native groundwater and an added oxidant, such as oxygen and/or hydrogen peroxide, as well as sodium carbonate/bicarbonate or carbon dioxide. The lixiviant is introduced through injection wells into the ore body to mobilize the uranium. The resulting solution is then pumped via extraction wells to the surface, where the uranium is recovered from the solution for further processing, after which the lixiviant may be re-injected.

(q) *Long-Term Stability Phase.* The period after the groundwater protection standards have been met and stability has been demonstrated according to 192.53(d) of this subpart, as determined by the regulatory agency.

(r) *Maximum Constituent Concentration.* The maximum permissible level of a constituent in groundwater, as specified in Table 1 to subpart A of part 192.

(s) *Maximum Contaminant Level (MCL).* The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. See 40 CFR 141.2.

(t) *Monitoring Wells.* Wells used to obtain groundwater levels and water samples for the purpose of determining the hydrologic regime and the amounts, types, and distribution of constituents in the groundwater. Wells are located in the production zone, around the perimeter of the production zone (horizontal excursion monitoring wells), and in overlying and underlying aquifers (vertical excursion monitoring wells).

(u) *Operational Phase.* The time period during which uranium extraction by in-situ recovery occurs. Operations begin when injection of lixiviant starts. Operations end when the operator permanently ceases injection of lixiviant and recovery of uranium-bearing solution for processing purposes.

(v) *Overlying Aquifer.* An aquifer that is immediately vertically shallower (*i.e.,* directly above) than the production zone aquifer.

(w) *Point(s) of Compliance.* Site-specific location(s) where groundwater protection standards must be met. During all phases of ISR, excursion monitoring wells can serve as the points of compliance; during the restoration, stability and long-term stability phases, points of compliance may also include monitoring, injection and extraction wells in the production zone, as determined by the regulatory agency.

(x) *Point(s) of Exposure.* Intersection of a vertical plane with the boundary of the exempted aquifer.

(y) *Preoperational Monitoring.* Measurement of groundwater conditions in the production zone, and in the groundwater up and down gradient from the production zone, as well as in overlying and underlying aquifers, prior to the operational phase.

(z) *Production Zone.* The portion of the aquifer in which ISR activities occur. The production zone lies within the wellfield.

(aa) *Restoration (Act of).* The process of returning groundwater quality to preoperational conditions for the purpose of achieving restoration goal values for identified constituents.

(bb) *Restoration Goal.* A concentration limit for an identified constituent in groundwater after restoration has occurred. The limit is obtained from the most protective regulatory standards in 40 CFR 141.62, 141.66, 141.80, 143.3, 264.94, and Table 1 to subpart A of this part, and from preoperational background levels in the wellfield, whichever is higher.

(cc) *Restoration Phase.* The period immediately after lixiviant injection permanently ceases, during which restoration activities occur.

(dd) *Site.* The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity. See 40 CFR 144.3.

(ee) *Stability Phase.* The period after the restoration phase when groundwater protection standards are met and monitored to test for temporal stability.

(ff) *Underlying Aquifer.* An aquifer that is immediately vertically deeper (*i.e.,* directly below) than the production zone aquifer.

(gg) *Upper Control Limit (UCL).* Preoperational concentrations of indicator parameters in horizontal and vertical excursion monitoring wells, as determined by the regulatory agency and contained in the license.

(hh) *Uranium Recovery Facility.* A facility licensed to process uranium ores for the purpose of recovering uranium and to manage uranium byproduct materials that result from processing of ores. Common names for these facilities include, but are not limited to, the following: A conventional uranium mill, an in-situ recovery (or leach) facility, and a heap leach facility or pile.

(ii) *Wellfield.* The area of an ISR operation that encompasses the array of

injection, extraction, and monitoring wells, ancillary equipment and interconnected piping employed in the uranium in-situ recovery process. The area of the wellfield exceeds that of the production zone.

§ 192.52 Standards.

(a) Except for those wellfields currently in and remaining in restoration, stability monitoring or long-term monitoring at a licensed facility, all operating wellfields, new wellfields and expansions of wellfields shall comply with § 192.52(c) of this subpart as of the effective date of this rule.

(b) *Surface and subsurface standards.* (1) Surface impoundments associated with ISR activities shall conform to the standards of § 192.32 of this part.

(2) Disposal of solid uranium byproduct materials produced by ISR activities shall conform to the standards in § 192.32 of this part.

(c) *Groundwater protection standards.* (1) Restoration goals shall be determined for each of the constituents listed in Table 1 to subpart F that is identified in the groundwater. Following restoration activities in the production zone, and prior to license termination, the concentration of a listed constituent in the groundwater within the production zone, as determined by the regulatory agency, must not exceed the higher of the following values:

(i) The background level of that constituent in the groundwater, as determined by preoperational monitoring conducted under § 192.53(a) of this subpart; or

(ii) The lowest concentration listed in 40 CFR 141.61, 141.62, 141.66, 141.80, 143.3, 264.94, or Table 1 to subpart A of this part for that constituent.

(iii) When considering the potential for health risks caused by human exposure to known or suspected carcinogens not listed in Table 1 to subpart F that are designated for monitoring by the regulatory agency, the restoration goal above the background level should be established at 40 CFR part 141, 143 or 264 concentration levels, if such values exist. For constituents that are not found in 40 CFR part 141, 143 or 264, the restoration goal above the background level should be established at concentration levels which represent a cumulative excess lifetime risk no greater than 10^{-4} to an average individual.

(2) The regulatory agency may establish provisional alternate concentration limits within the production zone provided that all of the following conditions are met:

(i) After all best practicable active restoration activities have been completed in accordance with the permit, the regulatory agency determines that concentrations for one or more constituents cannot be restored to restoration goals; and

(ii) The constituent(s) will not pose a substantial present or potential hazard to human health or the environment as long as the proposed alternate concentration limit(s) is not exceeded; and

(iii) In all cases, the restoration goals, as determined under paragraph (c)(1) of this section, are satisfied at all points of exposure.

(3) The regulatory agency may approve final alternate concentration limits provided that the following conditions are met:

(i) The licensee has demonstrated groundwater stability at 95 percent confidence for three consecutive years (*i.e.,* no increasing trend in concentration levels as identified by appropriate statistical techniques) of groundwater concentrations for the listed constituents before entering the long-term stability monitoring phase; and

(ii) The constituent(s) will not pose a substantial present or potential hazard to human health or the environment as long as the proposed alternate concentration limit(s) is not exceeded.

(4) In deciding whether to approve a provisional or a final alternate concentration limit, the regulatory agency shall consider, at a minimum, the following factors:

(i) Potential adverse effects on groundwater quality, considering:

(A) The physical and chemical characteristics of constituents in the groundwater at the site, including their potential for migration;

(B) The hydrogeological characteristics (*e.g.,* groundwater velocity) of the site and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of local groundwater users;

(E) The current and anticipated future uses of groundwater in the region surrounding the site;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on groundwater quality;

(G) The potential for health risks caused by human exposure to constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to constituents; and

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically-connected surface-water quality, considering:

(A) The volume and physical and chemical characteristics of the groundwater at the site;

(B) The hydrogeological characteristics of the site and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the site to surface waters;

(F) The current and future uses of surface waters in the region surrounding the site and any water quality standards established for those surface waters;

(G) The existing quality of hydraulically-connected surface water, including other sources of contamination and their cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to constituents; and

(J) The persistence and permanence of the potential adverse effects.

(iii) The presence of any underground source of drinking water as defined under § 144.3 of this chapter and any exempted aquifer identified under § 144.7 of this chapter.

(5) When considering the potential for health risks caused by human exposure to known or suspected carcinogens, alternate concentration limits pursuant to paragraphs 192.52(c)(2) and 192.52(c)(3) of this subpart should be established at concentration levels which represent a cumulative excess lifetime risk no greater than 10^{-4}, at a point of exposure, to an average individual.

TABLE 1 TO SUBPART F—MAXIMUM CONCENTRATION OF CONSTITUENTS FOR GROUNDWATER PROTECTION AT ISR FACILITY SITES

Constituent	Maximum concentration
Arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, nitrate (as N), molybdenum, radium–226 and radium–228 (combined), uranium (uranium–234, uranium–235 and uranium–238 combined), gross alpha particle activity (excluding radon and uranium).	The restoration goal is the primary or secondary MCL listed in 40 CFR 141.61, 141.62, 141.66, 141.80, and 143.3, the maximum concentration of hazardous constituents for groundwater protection under 264.94, or the maximum constituent concentration specified in Table 1 to Subpart A of this Part, whichever value is most stringent. Where a background concentration is determined to be higher than the most stringent value in the applicable regulations, the background concentration will serve as the restoration goal.

§ 192.53 Monitoring programs.

Licensees subject to this subpart must conduct a groundwater monitoring program, subject to approval by the regulatory agency, at prospective and licensed ISR sites and environs. This program shall address all phases of the site's activities and must be conducted as follows:

(a) *Preoperational phase monitoring.* (1) A sufficient number of wells, at appropriate locations and depths, shall be installed in such a manner as to yield representative samples in order to define the groundwater flow regime and measure preoperational conditions and water quality for use in statistical tests during operations, restoration, stability and long-term stability.

(2) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring-well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (*i.e.,* the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater.

(3) The preoperational background monitoring effort shall include immediately overlying aquifers, immediately underlying aquifers, and background monitoring inside and outside of the exempted aquifer, including both the up and downgradient areas outside of the production zone.

(4) During the monitoring effort, relevant data documenting geology, hydrology and geochemistry for radiological and non-radiological constituents shall be collected, both in the production zone and in surrounding areas that may be affected by the ISR operations.

(i) The monitoring effort shall be of sufficient duration of no less than one year and of sufficient scope to adequately characterize temporal and spatial variations in groundwater, and to account for impacts of well installation and development on background concentrations of constituents and values of indicator parameters, where applicable.

(ii) Preoperational monitoring shall be focused on determining background concentrations of constituents and indicator parameters in the following locations:

(A) Point of compliance wells within the proposed production zone;

(B) Point of compliance wells immediately overlying and immediately underlying aquifers;

(C) Point of compliance wells outside the production zone;

(D) Point of compliance wells within the exempted aquifer; and

(E) Point of compliance wells in upgradient and downgradient non-exempt portions of the adjacent aquifer.

(iii) The licensee shall employ appropriate statistical techniques to analyze background concentrations measured in individual wells within the proposed production zone for the purpose of determining restoration goals for groundwater restoration and long-term stability monitoring under § 192.52(c)(1) of this subpart. As determined by the licensee and approved by the regulatory agency, background concentration limits may be representative of individual wells, multiple wells, or all wells within the proposed production zone.

(iv) Radiological and non-radiological constituents to be monitored during the preoperational phase of an ISR facility shall include:

(A) All constituents listed in Table 1 to this subpart;

(B) Constituents and parameters necessary for geochemical calculations of groundwater chemistry and to model site performance in order to demonstrate that a stable groundwater chemistry state, as approved by the regulatory agency, has been achieved through restoration and is likely to persist in the long term; and

(C) Any additional constituents or parameters required by the regulatory agency, including metals potentially mobilized by the recovery process.

(b) *Operational phase monitoring.* (1) Indicator parameters, as established by the regulatory agency, shall be monitored in horizontal and vertical excursion monitoring wells determined by the regulatory agency throughout the operational phase of ISR activities.

(2) If an excursion is detected, as determined by the regulatory agency and as evidenced by indicator parameters exceeding established upper control limits, all constituents listed in Table 1 of this subpart shall be monitored as part of the corrective action program set forth in § 192.54 of this subpart until the excursion is controlled.

(c) *Restoration phase monitoring.* (1) All constituents listed in Table 1 of this subpart and otherwise specified by the regulatory agency shall be monitored during active restoration; sampling should occur no less frequently than quarterly, or other time interval specified by the regulatory agency.

(2) Indicator parameters, as established by the regulatory agency, shall be monitored in horizontal and vertical excursion monitoring wells determined by the regulatory agency throughout the restoration phase of ISR activities.

(3) If an excursion is detected, as determined by the regulatory agency and as evidenced by indicator parameters exceeding established upper control limits, all constituents listed in Table 1 of this subpart shall be monitored as part of the corrective action program set forth in § 192.54 of this subpart until the excursion is controlled.

(d) *Stability phase monitoring.* (1) The constituents to be monitored throughout the stability phase of an ISR facility in points of compliance wells in the production zone, as determined by the regulatory agency, shall include:

(i) All constituents listed in Table 1 of this subpart;

(ii) Any additional constituents required by the regulatory agency, such as:

(A) Constituents and parameters necessary for geochemical calculations of the groundwater chemistry in order to demonstrate that a stable groundwater chemistry has been achieved and is likely to persist in the long-term;

(B) Components of the lixiviant fluids injected during uranium recovery and any fluids injected during restoration; or

(C) Metals potentially mobilized by the uranium recovery process.

(2) Through field measurements using the monitoring network established to meet the requirements of § 192.53(a) of this section, observations and calculations, and applying appropriate statistical techniques, the licensee shall demonstrate that aquifer conditions within the production zone are stable.

(i) Stability shall be demonstrated for three consecutive years at a 95 percent confidence interval, measured from the time at which sufficient data to determine statistical significance has been collected, and based on sampling no less frequently than quarterly.

(ii) Individual wells within the production zone can be the point of compliance for the purpose of assessing stability, as approved by the regulatory agency.

(iii) If the licensee finds that the stability of groundwater meeting the concentration limits determined in § 192.52(c)(1) of this subpart cannot be demonstrated for three consecutive years for one or more constituents, the regulatory agency may:

(A) Require the licensee to resume active restoration efforts; or

(B) Depending on the significance of the departure from the groundwater protection standards determined in § 192.52(c)(1) of this subpart, approve a provisional alternate concentration limit according to the requirements of § 192.52(c)(2) of this subpart. Once stability has been documented for three consecutive years, the regulatory agency may approve a final alternate concentration limit according to the requirements of § 192.52(C)(3) of this subpart.

(3) If an exceedance occurs, as determined by the regulatory agency and as evidenced by exceeding groundwater protection standards in 192.52(c) of this subpart at point of compliance wells, all constituents listed in Table 1 of this subpart shall be monitored as part of the corrective action program set forth in § 192.54 of this subpart until the exceedance is controlled.

(e) *Long-term stability phase monitoring.* (1) Through field measurements utilizing the monitoring network established to meet the requirements of § 192.53(a) of this section, observations and calculations, and applying appropriate statistical techniques, the licensee shall demonstrate that post-restoration aquifer conditions within the production zone remain stable and continue to show compliance with groundwater protection standards established under § 192.52(c) of this subpart.

(i) Stability and groundwater protection compliance shall be demonstrated based on sampling no less frequently than quarterly, or other time interval approved by the regulatory agency.

(ii) Specific, individual wells within the production zone and approved by the regulatory agency shall be the points of compliance for the purpose of assessing stability and groundwater protection compliance, as approved by the regulatory agency.

(iii) Long-term stability monitoring shall be conducted for a period of 30 years. The regulatory agency may shorten the long-term stability monitoring period if, after stability is documented for a period of three consecutive years as described under § 192.53(d), the licensee demonstrates through geochemical modeling of the site that the subsurface conditions within the production zone will remain stable into the future. In evaluating such modeling, the regulatory agency must determine that there is a reasonable assurance that restoration goals will continue to be met and that subsurface conditions in the future will not cause the re-mobilization of uranium, radium or other constituents into the groundwater.

(2) If one or more monitored groundwater constituents in a point of compliance well within the wellfield exceeds a groundwater protection standard as defined in 192.52(c), or one or more monitored constituents in a point of compliance well within the wellfield show statistically significant increasing trends that would threaten groundwater quality if left unabated, then the licensee must submit a report to the regulatory agency within 60 days describing the circumstances and the corrective actions to be taken. All constituents listed in Table 1 to this subpart shall be monitored as part of the corrective action program set forth in § 192.54 of this part.

§ 192.54 Corrective action program.

(a) A corrective action program shall be developed by the licensee and approved by the regulatory agency for each ISR site at the time of licensing. The plan shall address a range of possible excursion and exceedance scenarios (*e.g.,* minor to catastrophic) and list options for corrective action. If an excursion is detected at a licensed facility at any time during the ISR operational phase or restoration phase, or an exceedance is detected during the stability or long-term stability phase, applicable portions of the corrective action program shall be implemented as soon as is practicable, and in no event later than ninety (90) days after such an occurrence. With the objective of returning constituent concentration levels in groundwater to the restoration goals within the production zone and the maximum contaminant level in adjacent aquifers, the corrective action program shall:

(1) Address removing constituents at the point of compliance or treating them in place; and

(2) Address removing or treating in place any constituents that exceed groundwater protection standards between the point of compliance and the point of exposure.

(b) The licensee shall continue corrective action measures to the extent necessary to achieve and maintain compliance with the groundwater protection standards in § 192.52(c) of this subpart. The regulatory agency will determine when the licensee may terminate corrective action measures based on data from the groundwater monitoring program and other information that provides reasonable assurance that the groundwater protection standards in § 192.52(c) will not be exceeded.

(c) After the corrective action program has been terminated, the licensee must establish and implement a groundwater monitoring program to demonstrate the effectiveness of the corrective action program in stabilizing the concentrations of constituents in the groundwater. The monitoring program shall continue for a period of not less than 3 years and be based on the requirements specified in § 192.53(d) and 192.53(e).

§ 192.55 Effective date.

Subpart F shall be effective on [60 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN **FEDERAL REGISTER**].

[FR Doc. 2015–00276 Filed 1–23–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL REGISTER

Vol. 80 Monday,

No. 16 January 26, 2015

Part IV

The President

Executive Order 13689—Enhancing Coordination of National Efforts in the Arctic

Federal Register
Vol. 80, No. 16
Monday, January 26, 2015

Presidential Documents

Title 3—

The President

Executive Order 13689 of January 21, 2015

Enhancing Coordination of National Efforts in the Arctic

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to prepare the Nation for a changing Arctic and enhance coordination of national efforts in the Arctic, it is hereby ordered as follows:

Section 1. *Policy.* The Arctic has critical long-term strategic, ecological, cultural, and economic value, and it is imperative that we continue to protect our national interests in the region, which include: national defense; sovereign rights and responsibilities; maritime safety; energy and economic benefits; environmental stewardship; promotion of science and research; and preservation of the rights, freedoms, and uses of the sea as reflected in international law.

Over the past 60 years, climate change has caused the Alaskan Arctic to warm twice as rapidly as the rest of the United States, and will continue to transform the Arctic as its consequences grow more severe. Over the past several decades, higher atmospheric temperatures have led to a steady and dramatic reduction in Arctic sea ice, widespread glacier retreat, increasing coastal erosion, more acidic oceans, earlier spring snowmelt, thawing permafrost, drier landscapes, and more extensive insect outbreaks and wildfires, thus changing the accessibility and natural features of this remote region. As a global leader, the United States has the responsibility to strengthen international cooperation to mitigate the greenhouse gas emissions driving climate change, understand more fully and manage more effectively the adverse effects of climate change, protect life and property, develop and manage resources responsibly, enhance the quality of life of Arctic inhabitants, and serve as stewards for valuable and vulnerable ecosystems. In doing so, we must rely on science-based decisionmaking and respect the value and utility of the traditional knowledge of Alaska Native peoples. As the United States assumes the Chairmanship of the Arctic Council, it is more important than ever that we have a coordinated national effort that takes advantage of our combined expertise and efforts in the Arctic region to promote our shared values and priorities.

As the Arctic has changed, the number of Federal working groups created to address the growing strategic importance and accessibility of this critical region has increased. Although these groups have made significant progress and achieved important milestones, managing the broad range of interagency activity in the Arctic requires coordinated planning by the Federal Government, with input by partners and stakeholders, to facilitate Federal, State, local, and Alaska Native tribal government and similar Alaska Native organization, as well as private and nonprofit sector, efforts in the Arctic.

Sec. 2. *Arctic Executive Steering Committee.* (a) Establishment. There is established an Arctic Executive Steering Committee (Steering Committee), which shall provide guidance to executive departments and agencies (agencies) and enhance coordination of Federal Arctic policies across agencies and offices, and, where applicable, with State, local, and Alaska Native tribal governments and similar Alaska Native organizations, academic and research institutions, and the private and nonprofit sectors.

(b) *Membership.* The Steering Committee shall consist of:

(i) the heads, or their designees, of the Office of Science and Technology Policy, the Council on Environmental Quality, the Domestic Policy Council, and the National Security Council;

(ii) the Executive Officer of the Steering Committee, who shall be designated by the Chair of the Steering Committee (Chair); and

(iii) the Deputy Secretary or equivalent officer from the Departments of State, Defense, Justice, the Interior, Agriculture, Commerce, Labor, Health and Human Services, Transportation, Energy, and Homeland Security; the Office of the Director of National Intelligence; the Environmental Protection Agency; the National Aeronautics and Space Administration; the National Science Foundation; the Arctic Research Commission; and the Office of Management and Budget; the Assistant to the President for Public Engagement and Intergovernmental Affairs, or his or her designee; and other agencies or offices as determined appropriate by the Chair.

(c) *Administration.*

(i) The Director of the Office of Science and Technology Policy, or his or her designee, shall be the Chair of the Executive Steering Committee. The Assistant to the President for National Security Affairs, or his or her designee, shall be the Vice Chair. Under the leadership of the Chair, the Steering Committee will meet quarterly, or as appropriate, to shape priorities, establish strategic direction, oversee implementation, and ensure coordination of Federal activities in the Arctic.

(ii) The Steering Committee shall coordinate with existing working groups established by Executive Order or statute.

(iii) As appropriate, the Chair of the Steering Committee may establish subcommittees and working groups, consisting of representatives from relevant agencies, to focus on specific key issues and assist in carrying out its responsibilities.

(iv) Agencies shall provide administrative support and additional resources, as appropriate, to support their participation in the Steering Committee to the extent permitted by law and within existing appropriations. Each agency shall bear its own expenses for supporting its participation in the Steering Committee and associated working groups.

(v) Each member of the Steering Committee shall provide the Executive Officer with a single point of contact for coordinating efforts with interagency partners, collaborating with State, local, and Alaska Native tribal governments and similar Alaska Native organizations, and assisting in carrying out the functions and duties assigned by the Steering Committee.

Sec. 3. *Responsibilities of the Arctic Executive Steering Committee.* The Steering Committee, in coordination with the heads of relevant agencies and under the direction of the Chair, shall:

(a) provide guidance and coordinate efforts to implement the priorities, objectives, activities, and responsibilities identified in National Security Presidential Directive 66/Homeland Security Presidential Directive 25, Arctic Region Policy, the National Strategy for the Arctic Region and its Implementation Plan, and related agency plans;

(b) provide guidance on prioritizing Federal activities, consistent with agency authorities, while the United States is Chair of the Arctic Council, including, where appropriate, recommendations for resources to use in carrying out those activities; and

(c) establish a working group to provide a report to the Steering Committee by May 1, 2015, that:

(i) identifies potential areas of overlap between and within agencies with respect to implementation of Arctic policy and strategic priorities and provides recommendations to increase coordination and reduce any duplication of effort, which may include ways to increase the effectiveness of existing groups; and

(ii) provides recommendations to address any potential gaps in implementation.

Sec. 4. *Duties of the Executive Officer.* The Executive Officer shall be responsible for facilitating interagency coordination efforts related to implementing the guidance and strategic priorities developed by the Steering Committee. The Executive Officer shall coordinate with the Chair and the Special Advisor on Arctic Science and Policy at the Department of State to provide regular reports to the Steering Committee on agency implementation and planning efforts for the Arctic region.

Sec. 5. *Engagement with the State of Alaska, Alaska Native Tribal Governments, as well as other United States Stakeholders.* It is in the best interest of the Nation for the Federal Government to maximize transparency and promote collaboration where possible with the State of Alaska, Alaska Native tribal governments and similar Alaska Native organizations, and local, private-sector, and nonprofit-sector stakeholders. To facilitate consultation and partnerships with the State of Alaska and Alaska Native tribal governments and similar Alaska Native organizations, the Steering Committee shall:

(a) develop a process to improve coordination and the sharing of information and knowledge among Federal, State, local, and Alaska Native tribal governments and similar Alaska Native organizations, and private-sector and nonprofit-sector groups on Arctic issues;

(b) establish a process to ensure tribal consultation and collaboration, consistent with my memorandum of November 5, 2009 (Tribal Consultation). This process shall ensure meaningful consultation and collaboration with Alaska Native tribal governments and similar Alaska Native organizations in the development of Federal policies that have Alaska Native implications, as applicable, and provide feedback and recommendations to the Steering Committee;

(c) identify an appropriate Federal entity to be the point of contact for Arctic matters with the State of Alaska and with Alaska Native tribal governments and similar Alaska Native organizations to support collaboration and communication; and

(d) invite members of State, local, and Alaska Native tribal governments and similar Alaska Native organizations, and academic and research institutions to consult on issues or participate in discussions, as appropriate and consistent with applicable law.

Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

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

THE WHITE HOUSE,
January 21, 2015.

[FR Doc. 2015–01522
Filed 1–23–15; 11:15 am]
Billing code 3295–F5

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