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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 556, and 558

[Docket No. FDA–2016–N–0002]

New Animal Drugs; Approval of New Animal Drug Applications; Withdrawal of Approval of New Animal Drug Applications; Changes of Sponsorship

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the animal drug regulations to reflect application-related actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during March and April 2016. FDA is also informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to reflect changes of sponsorship of applications and the voluntary withdrawals of approval of applications that occurred in January and February.

DATES: This rule is effective June 8, 2016 except for the amendments to 21 CFR 520.1696b, 520.2325a, 520.2261a, 558.248, and 558.625, which are effective June 20, 2016.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5689, *george.haibel@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Approval Actions

FDA is amending the animal drug regulations to reflect approval actions for NADAs and ANADAs during March and April 2016, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents at the CVM FOIA Electronic Reading Room: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm.* Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book), at: *http://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/default.htm.*

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING MARCH AND APRIL 2016

File No.	Sponsor	Product name	Action	21 CFR section	FOIA summary	NEPA review
141–392	Elanco Animal Health, a Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285.	IMRESTOR (pegbovigrastim injection).	Original approval for the reduction in the incidence of clinical mastitis in the first 30 days of lactation in periparturient dairy cows and periparturient replacement dairy heifers.	522.1684	yes	EA/FONSI [1]
141–455	Aratana Therapeutics, Inc., 11400 Tomahawk Creek Pkwy., Leawood, KS 66211.	GALLIPRANT (grapiprant tablets).	Original approval for the control of pain and inflammation associated with osteoarthritis in dogs.	510.600 520.1084	yes	CE [2] [3]
141–460	ECO LLC, 344 Nassau St., Princeton, NJ 08540.	AIVLOSIN 17% (tylvalosin tartrate) Type A Medicated Article.	Original approval for control of porcine proliferative enteropathy (PPE) associated with *Lawsonia intracellularis* infection in groups of swine in buildings experiencing an outbreak of PPE.	558.633	yes	CE [2] [4]

[1] The Agency has carefully considered an environmental assessment (EA) of the potential environmental impact of this action and has made a finding of no significant impact (FONSI).
[2] The Agency has determined that this action is categorically excluded (CE) from the requirement to submit an environmental assessment or an environmental impact statement because it is of a type that does not have a significant effect on the human environment.
[3] CE granted under 21 CFR 25.33(d)(1).
[4] CE granted under 21 CFR 25.33(d)(5).

II. Changes of Sponsorship

Bayer HealthCare LLC, Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201 (Bayer) has informed FDA that it has transferred ownership of, and all rights and interest in, the following approved applications to Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland:

File No.	Product name	21 CFR section
099–169	Oxytocin Injection	522.1680
124–241	PVL Oxytocin Injectable Solution	522.1680
200–069	OvaCyst (gonadorelin diacetate tetrahydrate) Injection	522.1077
200–253	ProstaMate (dinoprost tromethamine) Injectable Solution	522.690

Bayer has also transferred sponsorship of NADA 141–070 for RAPINOVET (propofol) Injectable Emulsion to iVaoes Animal Health, 4300 SW 73rd Ave., suite 110, Miami, FL 33155. As provided in the regulatory text of this document, the animal drug regulations are amended to reflect these changes of sponsorship.

III. Withdrawals of Approval

In addition, during March and April 2016, the following two sponsors have requested that FDA withdraw approval of the NADAs and ANADAs listed in the following table because the products are no longer manufactured or marketed:

File No.	Sponsor	Product name	21 CFR section
007–076 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	SULFA–NO_X Liquid (sulfaquinoxaline) 3.44% Solution	520.2325a
008–244 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	SULFA–NO_X Concentrate (sulfaquinoxaline) 12.85% Solution.	520.2325a
041–955 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	Erythromycin Medicated Premix	558.248
049–729 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	PURINA Sulfa (sulfamethazine) 12.5% Solution	520.2261a
100–128 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	Supersweet Medipak TYLAN 10	558.625
200–307 [1]	Vetoquinol N.-A., Inc., 2000 chemin Georges, Lavaltrie (PQ), Canada J5T 3S5.	Penicillin G Potassium Soluble Powder	520.1696b

[1] These NADAs were identified as being affected by guidance for industry #213, ''New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions with GFI #209,'' December 2013.

Elsewhere in this issue of the **Federal Register**, FDA gave notice that approval of NADAs 007–076, 008–244, 041–955, 049–729, 100–128, and ANADA 200–307, and all supplements and amendments thereto, is withdrawn, effective June 20, 2016. As provided in the regulatory text of this document, the animal drug regulations are amended to reflect these voluntary withdrawals of approval.

IV. Technical Amendments

FDA has noticed that the section heading for 21 CFR 520.1430 does not accurately reflect the new animal drug for which approved conditions of use are codified. At this time, we are amending the section heading to read ''Mibolerone'' rather than ''Megestrol acetate tablets.'' This action is being taken to improve the accuracy of the regulations.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520 and 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, parts 510, 520, 522, 556, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

■ 2. In § 510.600:

■ a. In the table in paragraph (c)(1), alphabetically add entries for ''Aratana Therapeutics, Inc.'' and ''iVaoes Animal Health'' and revise entry for ''Huvepharma AD;'' and

■ b. In the table in paragraph (c)(2), revise the entry for ''016592'' and numerically add entries for ''086026'' and ''086064.''

The additions and revisions read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Aratana Therapeutics, Inc., 11400 Tomahawk Creek Pkwy., Leawood, KS 66211	086026
* * * * * * *	
Huvepharma EOOD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sofia, Bulgaria	016592
* * * * * * *	
iVaoes Animal Health, 4300 SW 73rd Ave., suite 110, Miami, FL 33155	086064
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
016592	Huvepharma EOOD, 5th Floor, 3A Nikolay Haytov Str., 1113 Sofia, Bulgaria
* * * * * * *	
086026	Aratana Therapeutics, Inc., 11400 Tomahawk Creek Pkwy., Leawood, KS 66211
* * * * * * *	
086064	iVaoes Animal Health, 4300 SW 73rd Ave., suite 110, Miami, FL 33155
* * * * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 4. Add § 520.1084 to read as follows:

§ 520.1084 Grapiprant.

(a) *Specifications.* Each tablet contains 20, 60, or 100 milligrams (mg) grapiprant.

(b) *Sponsor.* See No. 086026 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 0.9 mg/lb (2 mg/kg) once daily by mouth.

(2) *Indications for use.* For the control of pain and inflammation associated with osteoarthritis in dogs.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 5. Revise the heading of § 520.1430 to read as follows:

§ 520.1430 Mibolerone.

* * * * *

§ 520.1696b [Amended]

■ 6. Effective June 20, 2016, in § 520.1696b, in paragraph (b), remove ''059320,''.

§ 520.2261a [Amended]

■ 7. Effective June 20, 2016, in § 520.2261a, in paragraph (b), remove ''Nos. 016592 and 061623'' and in its place add ''No. 016592''.

§ 520.2325a [Amended]

■ 8. Effective June 20, 2016, in § 520.2325a, remove paragraph (a)(2) and redesignate paragraphs (a)(3) and (4) as paragraphs (a)(2) and (3).

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 9. The authority citation for part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.690 [Amended]

■ 10. In § 522.690, in paragraph (b)(3), remove ''000859'' and in its place add ''061623''.

§ 522.1077 [Amended]

■ 11. In § 522.1077, in paragraph (b)(3), remove ''000859 and 050604'' and in its place add ''050604 and 061623''.

§ 522.1680 [Amended]

■ 12. In § 522.1680, in paragraph (b), remove ''000859''.

■ 13. Add § 522.1684 to read as follows:

§ 522.1684 Pegbovigrastim.

(a) *Specifications.* Each pre-filled, single-dose syringe contains 15 milligrams of pegbovigrastim.

(b) *Sponsor.* See No. 000986 in § 510.600(c) of this chapter.

(c) *Conditions of use in cattle*—(1) *Amount.* Administer the first dose (syringe) by subcutaneous injection 7 days prior to the cow's or heifer's anticipated calving date. If necessary, the first dose may be administered within a range of 4 to 10 days prior to the anticipated calving date to accommodate management schedules. Administer the second dose (syringe) by subcutaneous injection within 24 hours after calving.

(2) *Indications for use.* For the reduction in the incidence of clinical mastitis in the first 30 days of lactation in periparturient dairy cows and periparturient replacement dairy heifers.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 522.2005 [Amended]

■ 14. In § 522.2005, in paragraph (b)(1), remove ''000859'' and in its place add ''086064''.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 15. The authority citation for part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

■ 16. In § 556.748, revise paragraph (c) to read as follows:

§ 556.748 Tylvalosin.

* * * * *

(c) *Related conditions of use.* See §§ 520.2645 and 558.633 of this chapter.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 17. The authority citation for part 558 continues to read as follows:

Authority: 21 U.S.C. 354, 360b, 360ccc, 360ccc–1, 371.

■ 18. In § 558.4, in paragraph (d), in the ''Category I'' table, add an entry in alphabetical order for ''Tylvalosin'' to read as follows:

§ 558.4 Requirement of a medicated feed mill license.

* * * * *

(d) * * *

CATEGORY I

Drug	Assay limits percent Type A	Type B maximum (200x)	Assay limits percent Type B/C
*	*	*	*
Tylvalosin	90–110	3.86 g/lb	85–115
*	*	*	*

* * * * *

§ 558.248 [Amended]

■ 19. Effective June 20, 2016, in § 558.248, revise paragraphs (a) and (b) and remove and reserve paragraph (d)(1)(iii).

The revisions read as follows:

§ 558.248 Erythromycin.

(a) *Specifications.* Type A medicated articles containing 5 or 10 percent erythromycin thiocyanate.

(b) *Sponsor.* See No. 061623 in § 510.600(c) of this chapter.

* * * * *

§ 558.625 [Amended]

■ 20. Effective June 20, 2016, in § 558.625, remove paragraph (b)(3) and redesignate paragraphs (b)(4) and (5) as paragraphs (b)(3) and (4).

■ 21. Add § 558.633 to read as follows:

§ 558.633 Tylvalosin.

(a) *Specifications.* Type A medicated articles containing 77.12 grams tylvalosin per pound as tylvalosin tartrate.

(b) *Sponsor.* See No. 066916 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.748 of this chapter.

(d) *Special considerations*—(1) Federal law restricts tylvalosin medicated feeds to use under a veterinary feed directive (VFD) and the professional supervision of a licensed veterinarian. See § 558.6 of this chapter for additional requirements.

(2) VFDs for tylvalosin shall not be refilled.

(3) An expiration date of 1 week is required for tylvalosin Type C medicated swine feeds in pelleted or crumbled form.

(e) *Conditions of use in swine*—(1) *Amount.* Administer 38.6 grams tylvalosin per ton of Type C medicated feed (42.5 ppm) as the sole ration for 14 consecutive days.

(2) *Indications for use.* For the control of porcine proliferative enteropathy (PPE) associated with *Lawsonia intracellularis* infection in groups of swine in buildings experiencing an outbreak of PPE.

Dated: May 31, 2016.

Tracey Forfa,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2016–13517 Filed 6–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520 and 558

[Docket No. FDA–2016–N–0002]

New Animal Drugs; Withdrawal of Approval of a New Animal Drug Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of five new animal drug applications (NADAs) and an abbreviated new animal drug application (ANADA). This action is being taken at the sponsors' request because these products are no longer manufactured or marketed.

DATES: Withdrawal of approval is effective June 20, 2016.

FOR FURTHER INFORMATION CONTACT: Sujaya Dessai, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5761, *sujaya.dessai@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The sponsors of the following applications have requested that FDA withdraw approval of the NADAs and ANADA listed in the following table because the products are no longer manufactured or marketed:

File No.	Sponsor	Product name	21 CFR section
007–076 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	SULFA–NOX Liquid (sulfaquinoxaline) 3.44% Solution	520.2325a
008–244 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	SULFA–NOX Concentrate (sulfaquinoxaline) 12.85% Solution.	520.2325a

File No.	Sponsor	Product name	21 CFR section
041–955 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	Erythromycin Medicated Premix	558.248
049–729 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	PURINA Sulfa (sulfamethazine) 12.5% Solution	522.2260a
100–128 [1]	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	Supersweet Medipak TYLAN 10	558.625
200–307 [1]	Vetoquinol N.-A., Inc., 2000 chemin Georges, Lavaltrie (PQ), Canada J5T 3S5.	Penicillin G Potassium, USP, Soluble Powder	520.1696b

[1]These NADAs were identified as being affected by guidance for industry #213, ''New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions with GFI #209,'' December 2013.

Therefore, under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, and in accordance with § 514.116 *Notice of withdrawal of approval of application* (21 CFR 514.116), notice is given that approval of NADAs 007–076, 008–244, 041–955, 049–729, 100–128, and ANADA 200–307, and all supplements and amendments thereto, is hereby withdrawn, effective June 20, 2016.

Elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations to reflect the voluntary withdrawal of approval of these applications.

Dated: May 31, 2016.

Tracey Forfa,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 2016–13518 Filed 6–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF STATE

22 CFR Parts 35, 103, 127, and 138

[Public Notice: 9536]

RIN 1400–AD94

Civil Monetary Penalties Inflationary Adjustment

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule is issued to adjust the civil monetary penalties (CMP) for regulatory provisions maintained and enforced by the Department of State. The Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act), as amended by the Debt Collection Improvement Act of 1996 (the 1996 Act), required the head of each agency to adjust its CMPs for inflation no later than October 23, 1996 and required agencies to make adjustments at least once every four years thereafter. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) further amended the 1990 Act by requiring agencies to adjust CMPs, if necessary, pursuant to a ''catch-up'' adjustment methodology prescribed by the 2015 Act, which mandates that the catch up adjustment take effect no later than August 1, 2016. Additionally, the 2015 Act requires agencies to make annual adjustments to their respective CMPs in accordance with guidance issued by the Office of Management and Budget. The revised CMP adjustments in this rule will apply only to those penalties assessed after its effective date; subsequent annual adjustments are to be published not later than January 15 of each year. In keeping with guidance provided by the Office of Management and Budget, the new penalty levels will apply to all assessments made on or after August 1, 2016, regardless of the date on which the underlying facts or violations occurred.

DATES: This final rule is effective August 1, 2016.

FOR FURTHER INFORMATION CONTACT: Alice Kottmyer, Attorney-Adviser, Office of Management, *kottmyeram@state.gov.* ATTN: Regulatory Change, CMP Adjustments, (202) 647–2318.

SUPPLEMENTARY INFORMATION: The 1990 Act (Pub. L. 101–410) provided for the regular evaluation of CMPs by federal agencies. Periodic inflationary adjustments of CMPs ensure that the consequences of statutory violations adequately reflect the gravity of such offenses and that CMPs are properly accounted for and collected by the federal government. In April 1996, the 1990 Act was amended by the 1996 Act (Pub. L. 104–134), which required federal agencies to adjust their CMPs at least once every four years. However, because inflationary adjustments to CMPs were statutorily capped at ten percent of the maximum penalty amount, but only required to be calculated every four years, CMPs in many cases did not correspond with the true measure of inflation over the preceding four year period, leading to a decline in the real value of the penalty. To remedy this decline, the 2015 Act (section 701 of Pub. L. 114–74) requires agencies to adjust the level of CMPs with an initial ''catch-up'' adjustment through a rulemaking and to make subsequent annual inflationary adjustments to their respective CMPs using a methodology mandated by the legislation.

The 1990 Act defines civil monetary penalty as any penalty, fine, or other sanction that:

- Is for a specific monetary amount as provided for in federal law; or has a maximum amount provided for by federal law; and
- is assessed or enforced by an agency as pursuant to federal law; and,
- is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts.

Within the Department of State (Title 22, Code of Federal Regulations), this rule affects four areas:

(1) Part 35, which implements the Program Fraud Civil Remedies Act of 1986 (PFCRA), codified at 31 U.S.C. 3801–3812;

(2) Part 103, which implements the Chemical Weapons Convention Implementation Act of 1998 (CWC Act);

(3) Part 127, which implements the penalty provisions of sections 38(e), 39A(c), and 40(k) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(e), 2779a(c), 2780(k)); and

(4) Part 138, which implements Section 319 of Public Law 101–221, codified at 31 U.S.C. 1352, and prohibits recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract.

The 2015 Act instructs agencies to make a one-time catch-up adjustment to CMPs using the maximum penalty level or range of minimum and maximum penalties as they were ''most recently established or adjusted under a provision of law other than [the 1990] Act.'' Nevertheless, the 2015 Act

specifies that the catch-up adjustment amount will in no case exceed 150% of the penalty amount which was in force at the enactment date of the 2015 Act on November 2, 2015; therefore, the total revised penalty amount will not exceed 250% of the total maximum penalty amount on November 2, 2015.

Specific Changes to 22 CFR Made by This Rule

I. Part 35

The PFRCA, enacted in 1986, authorizes agencies, with approval from the Department of Justice, to pursue individuals or firms for false claims. The maximum liability under the PFRCA is $5,000 for each false claim, up to a maximum of $150,000, in addition to twice the amount of the claim submitted contrary to the PFRCA.

According to OMB guidance, the multiplier for the PFRCA (a 1986 statute) is 2.15628; therefore, the new maximum penalty for each false claim or statement is $10,781, up to a maximum of $323,442.

II. Part 103

The CWC Act provided domestic implementation of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction. The penalty provisions of the CWC Act are codified at 22 U.S.C. 6761. A person violating 22 U.S.C. 6761(a)(1)(A), *Prohibited acts relating to inspections,* is subject to a civil penalty of an amount not to exceed $25,000 for each such violation. A person violating 22 U.S.C. 6761(a)(1)(B), *Recordkeeping violations,* is subject to a civil penalty in an amount not to exceed $5,000 for each such violation.

According to OMB Guidance, the multiplier for the CWC Act (a 1998 statute) is 1.45023. Therefore, the new maximum civil monetary penalty for prohibited acts relating to inspections is $36,256 for each violation; and the new maximum civil monetary penalty for recordkeeping violations is $7,251 for each such violation.

III. Part 127

The Assistant Secretary of State for Political-Military Affairs is responsible for the imposition of CMPs under the International Traffic in Arms Regulations (ITAR), which is administered by the Directorate of Defense Trade Controls (DDTC). Each of the penalty provisions of the AECA provides that the CMP for each relevant violation may not exceed $500,000.

(1) AECA Section 38(e)

The most recent statutory modification of the CMPs provided for under AECA section 38(e), 22 U.S.C. 2778(e), occurred in 1985 when the maximum penalty amount was capped at $500,000 per violation. According to OMB guidance, the multiplier for AECA section 38(e) is 2.18802; therefore, the new maximum penalty will be $1,094,010 per violation.

(2) AECA Section 39A(c)

The most recent statutory modification of the CMPs provided for under AECA section 39A(c), 22 U.S.C. 2779a(c), occurred in 1994 when the maximum penalty amount was capped at $500,000 per violation. According to OMB guidance, the multiplier for AECA section 39A(c) is 1.59089; therefore, the new maximum adjusted penalty level will be $795,445 per violation.

(3) AECA Section 40(k)

The most recent statutory modification of the CMPs provided for under AECA section 40(k), 22 U.S.C. 2780(k), occurred in 1989 when the maximum penalty amount was capped at $500,000 per violation. According to OMB guidance, the multiplier for AECA section 40(k) is 1.89361; therefore, the new maximum adjusted penalty level will be $946,805 per violation.

IV. Part 138

Section 319 of Public Law 101–121, codified at 31 U.S.C. 1352, provides penalties for recipients of federal contracts, grants, and loans who use appropriated funds to lobby the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. Any person who violates that prohibition is subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure. The statute also requires each person who requests or receives a federal contract, grant, cooperative agreement, loan, or a federal commitment to insure or guarantee a loan, to disclose any lobbying; the penalty for failure to disclose is not less than $10,000 and not more than $100,000 for each such failure.

According to OMB guidance, the multiplier for 31 U.S.C. 1352 (a 1989 statute) is 1.89361. Therefore, the new maximum civil violations under the statute, for both improper expenditures and failure to disclose, are: Not less than $18,936 and not more than $189,361.

Effective Date of Penalties

The revised CMP amounts will go into effect on August 1, 2016. All violations for which CMPs are assessed after the effective date of this rule, regardless of whether the violation occurred before the effective date, will be assessed at the adjusted penalty level.

Future Adjustments and Reporting

The 2015 Act directs agencies to undertake an annual review of CMPs using a formula prescribed by the statute. Hereafter, annual adjustments to CMPs will be made in accordance with the guidance issued by OMB. The Department of State will publish notification of annual inflation adjustments to CMPs in the **Federal Register** no later than January 15 of each year, with the adjusted amount taking effect immediately upon publication. Furthermore, OMB Circular A–136, Financial Reporting Requirements, directs agencies to identify any changes to CMPs in the Agency Financial Report (AFR), including the affected penalties, dates and amounts of adjustments, and applicable statutes and regulations.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is publishing this rule using the ''good cause'' exception to the Administrative Procedure Act (5 U.S.C. 553(b)), as the Department has determined that public comment on this rulemaking would be impractical, unnecessary, or contrary to the public interest. This rulemaking is mandatory; it implements Public Law 114–74.

Regulatory Flexibility Act

Because this rulemaking is exempt from Section 553 of the Administrative Procedures Act, a Regulatory Flexibility Analysis is not required.

Unfunded Mandates Reform Act of 1995

This rule does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary

impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

The Department believes that benefits of the rulemaking outweigh any costs, and there are no feasible alternatives to this rulemaking. It is the Department's position that this rulemaking is not an economically significant rule under the criteria of Executive Order 12866, and is consistent with the provisions of Executive Order 13563.

Executive Order 12988

The Department of State has reviewed the proposed amendment in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. Chapter 35.

List of Subjects

22 CFR Part 35

Administrative practice and procedure, Claims, Fraud, Penalties.

22 CFR Part 103

Administrative practice and procedure, Chemicals, Classified information, Foreign relations, Freedom of information, International organization, Investigations, Penalties, Reporting and recordkeeping requirements.

22 CFR Part 127

Arms and munitions, Exports.

22 CFR Part 138

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth above, 22 CFR parts 127, 35, 103, and 138 are amended as follows:

PART 35—PROGRAM FRAUD CIVIL REMEDIES

■ 1. The authority citation for part 35 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 31 U.S.C. 3801 *et seq.;* Pub. L. 114–74, 129 Stat. 584.

■ 2. In § 35.3:
■ a. Remove ''$5,000'' and add in its place ''$10,781'', wherever it occurs.
■ b. Add paragraph (f) to read as follows:

§ 35.3 Basis for civil penalties and assessments.

* * * * *

(f) The maximum penalty for each false claim or statement is $10,781, up to a maximum of $323,442.

PART 103—REGULATIONS FOR IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION AND THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1998 ON THE TAKING OF SAMPLES AND ON ENFORCEMENT OF REQUIREMENTS CONCERNING RECORDKEEPING AND INSPECTIONS

■ 3. The authority citation for part 103 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 22 U.S.C. 6701 *et seq.;* Pub. L. 114–74, 129 Stat. 584.

§ 103.6 [Amended]

■ 4. Amend § 103.6 to remove ''$25,000'' and add in its place ''$36,256'' in paragraph (a)(1), and to remove ''$5,000'', and add in its place $7,251'' in paragraph (a)(2).

PART 127—VIOLATIONS AND PENALTIES

■ 5. The authority citation for part 127 is revised to read as follows:

Authority: Sections 2, 38, and 42, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2791); 22 U.S.C. 401; 22 U.S.C. 2651a; 22 U.S.C. 2779a; 22 U.S.C. 2780; E.O. 13637, 78 FR 16129; Pub. L. 114–74, 129 Stat. 584.

■ 6. Section 127.10 is amended by revising paragraph (a) to read as follows:

§ 127.10 Civil penalty.

(a)(1) The Assistant Secretary of State for Political-Military Affairs is authorized to impose a civil penalty, as follows:

(i) For each violation of 22 U.S.C. 2778, an amount not to exceed $1,094,010;

(ii) For each violation of 22 U.S.C. 2779a, an amount not to exceed $795,445; and

(iii) For each violation of 22 U.S.C. 2780, an amount not to exceed $946,805.

(2) The civil penalty may be either in addition to, or in lieu of, any other liability or penalty which may be imposed.

* * * * *

PART 138—NEW RESTRICTIONS ON LOBBYING

■ 7. The authority citation for part 138 is revised to read as follows:

Authority: 22 U.S.C. 2651a; 31 U.S.C. 1352; Pub. L. 114–74, 129 Stat. 584.

§ 138.400 [Amended]

■ 8. Amend § 138.400 by removing ''$10,000'' and ''$100,000'', and adding in their place ''$18,936'' and ''$189,361'' respectively, wherever they occur.

Dated: June 1, 2016.

Lisa Aguirre,

Managing Director, Directorate of Defense Trade Controls Department of State.

[FR Doc. 2016–13455 Filed 6–7–16; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9770]

RIN 1545–BN39

Certain Transfers of Property to Regulated Investment Companies [RICs] and Real Estate Investment Trusts [REITs]; Final and Temporary Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations effecting the repeal of the *General Utilities* doctrine by the Tax Reform Act of 1986 and preventing abuse of the Protecting Americans from Tax Hikes Act of 2015. The temporary regulations impose corporate level tax on certain transactions in which property of a C corporation becomes the property of a REIT. The temporary regulations affect RICs, REITs, C corporations the property of which becomes the property of a RIC or a REIT, and their shareholders. The text of these temporary regulations also serves as the text of part of the proposed regulations in the related notice of proposed rulemaking (REG–126452–15) set forth in the Proposed Rules section in this issue of the **Federal Register**.

DATES: These regulations are effective June 7, 2016.

FOR FURTHER INFORMATION CONTACT: Austin M. Diamond-Jones, (202) 317–5085 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

1. The General Utilities Doctrine, Its Repeal, and Section 337(d)

In general, gain on a sale of appreciated property by a C corporation is taxed to the corporation when the sale occurs and to the shareholders when the proceeds are distributed as dividends. Historically however, a corporation generally could distribute appreciated property to its shareholders without recognition of gain to the corporation under the so-called *General Utilities* doctrine arising from interpretations of *General Utilities & Operating Co.* v. *Helvering,* 296 U.S. 200 (1935). *See* H.R. Rep. No. 99–841, at 198 (1986) (Conf. Rep.); H.R. Rep. No. 99–426, at 274–75 (1985).

Beginning in 1969, a series of statutory limitations on the *General Utilities* doctrine were enacted into law. In the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97–248, 96 Stat. 324, current section 311(b) (originally designated as section 311(d)) was added to the Internal Revenue Code (Code) and required a corporation to recognize gain on appreciated property distributed to a shareholder in redemption of shares. Legislation enacted in 1984 required gain recognition for all non-liquidating distributions. Finally, what remained of the *General Utilities* doctrine was repealed (*General Utilities* repeal) by the enactment of subtitle D of title VI of the Tax Reform Act of 1986, Public Law 99–514, 100 Stat. 2085 (the Act), which amended sections 336 and 337 of the Code to require corporations to recognize gain or loss on the distribution of property in connection with complete liquidations other than certain subsidiary liquidations. Section 337(d) was added to the Code by section 631(a) of the Act and subsequently amended by section 1006(e)(5)(A)(i) through (ii) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100–647,102 Stat. 3342 (the Technical Amendment). This document contains amendments to 26 CFR part 1 under section 337(d).

Section 337(d) directs the Secretary of the Treasury to prescribe regulations that are necessary or appropriate to carry out the purposes of *General Utilities* repeal, including ''regulations to ensure that such purposes may not be circumvented through the use of any provision of law or regulations (including . . . part III of this subchapter) or through the use of a regulated investment company, real estate investment trust, or tax exempt entity. . . .'' The legislative histories of the Act and the Technical Amendment underscore the broad grant of regulatory authority and Congress' expectation that the Treasury Department and the IRS would issue or amend regulations as necessary to further the purposes of *General Utilities* repeal, ''includ[ing] rules to require the recognition of gain if appreciated property of a C corporation is transferred to a RIC or a REIT in a carryover basis transaction that would otherwise eliminate corporate level tax on the built-in appreciation.'' H.R. Rep. No. 100–391, at 1199 (1987); *see also* H.R. Rep. No. 99–841, at 204 (1986) (Conf. Rep.). Section 337(d)(1) specifically refers to ensuring that the purposes of *General Utilities* repeal are not circumvented through the use of the corporate organization and reorganization provisions of part III, subchapter C, chapter 1 of the Code, which include section 355.

2. Section 355 and the PATH Act

Section 355 generally provides that, if certain requirements are satisfied, a corporation may distribute stock (or stock and securities) of one or more controlled corporations to its shareholders and security holders without the distributing corporation, its shareholders, or its security holders recognizing income, gain, or loss on the distribution (a section 355 distribution). In the course of enacting certain amendments to section 355 as part of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, 104 Stat. 1388, Congress described section 355 as a ''limited exception to the repeal of the *General Utilities* doctrine intended to permit historic shareholders to continue to carry on their historic corporate businesses in separate corporations'' and stated that ''[t]he present-law provisions granting tax-free treatment at the corporate level are particularly troublesome because they may offer taxpayers an opportunity to avoid the general rule that corporate-level tax is recognized when an asset (including stock of a subsidiary) is disposed of.'' 136 Cong. Rec. S15704 (daily ed. Oct 18, 1990).[1] Further, Congress noted that ''[t]he bill is not intended to limit in any way the continuing Treasury Department authority to issue regulations to prevent the avoidance of the repeal of the *General Utilities* doctrine through any provision of law or regulations, including section 355.'' *Id.* at S15705.

On December 18, 2015, the President signed into law the Protecting Americans Against Tax Hikes Act of 2015 (PATH Act), enacted as Division Q of the Consolidated Appropriations Act, 2016, Public Law 114–113, 129 Stat. 2422. Section 311(a) and (b) of the PATH Act added to the Code sections 355(h) and 856(c)(8), respectively. Section 355(h)(1) of the Code provides that section 355 shall not apply to a distribution if either the distributing corporation or the controlled corporation is a REIT. Section 355(h)(2) provides exceptions permitting a REIT to distribute the stock of another REIT or of a taxable REIT subsidiary under certain conditions. Section 856(c)(8) provides that a corporation may not elect REIT status during the ten-year period following a section 355 distribution if such corporation was the distributing corporation or the controlled corporation in that distribution. Section 311(c) of the PATH Act provides that sections 355(h) and 856(c)(8) apply to distributions on or after December 7, 2015, but do not apply to any distribution pursuant to a transaction described in a ruling request initially submitted to the IRS on or before such date, which request has not been withdrawn and with respect to which a ruling has not been issued or denied in its entirety as of such date.

3. Prior Regulations

In certain cases, *General Utilities* repeal could be circumvented if property of a C corporation becomes the property of a RIC or a REIT (converted property) by a transfer of the converted property from a C corporation to a RIC or a REIT or by the qualification of the C corporation as a RIC or a REIT (either, a conversion transaction). A conversion transaction could result in elimination of the corporate level of gain in the converted property, including gain from the sale of the property, because RICs and REITs generally are not subject to tax on income that is distributed to their shareholders.

The Treasury Department and the IRS issued Notice 88–19 (1988–1 C.B. 486) on February 4, 1988. Notice 88–19 announced the IRS's intention to promulgate regulations providing that a C corporation engaging in a conversion transaction would be treated, for all federal income tax purposes, as if it had sold all of its assets at their respective fair market values (deemed sale treatment) and immediately liquidated, unless the C corporation elected to be

[1] The bill that resulted in Public Law 101–508, S.3209, was brought to the floor without printing a formal report, and language from the various committees to consider the bill was printed in the Congressional Record at the request of Senator Sasser to complete the legislative record.

subject to tax under section 1374 with respect to the C corporation property (section 1374 treatment). If elected, section 1374 treatment would subject the RIC or REIT to corporate-level taxation on the built-in gain recognized during the ten-year period following the conversion transaction on the converted property. Temporary regulations under § 1.337(d)–5T (TD 8872) and a notice of proposed rulemaking cross-referencing the temporary regulations (REG–209135–88) were published in the **Federal Register** (65 FR 5775, 65 FR 5805) on February 7, 2000, and reflected the principles set forth in Notice 88–19.

Additional temporary regulations under §§ 1.337(d)–6T and 1.337(d)–7T (TD 8975) and a notice of proposed rulemaking cross-referencing the temporary regulations (REG–142299–01 and REG–209135–88) were published in the **Federal Register** (67 FR 8, 67 FR 28) on January 2, 2002. The proposed regulations cross-referencing §§ 1.337(d)–5T through –7T, with modifications, were adopted on March 18, 2003 (TD 9047), and published as final regulations in the **Federal Register** (68 FR 12817).

4. Current Regulations

The final regulations in § 1.337(d)–6 apply to conversion transactions occurring on or after June 10, 1987, and before January 2, 2002, and provide that a C corporation engaging in such a conversion transaction is subject to deemed sale treatment unless the C corporation elects section 1374 treatment with respect to the converted property. The final regulations in § 1.337(d)–7 apply to conversion transactions occurring on or after January 2, 2002, and provide that the RIC or the REIT owning the property after the conversion transaction is subject to section 1374 treatment unless the C corporation engaging in a conversion transaction elects deemed sale treatment with respect to the converted property.

In response to concerns expressed by commentators (described subsequently), the Treasury Department and the IRS published in the **Federal Register** (77 FR 22516) on April 16, 2012, a notice of proposed rulemaking (REG–139991–08) proposing amendments to § 1.337(d)–7. These amendments (the 2013 amendments) were adopted as final regulations (TD 9626) and were published in the **Federal Register** (78 FR 46805) on August 2, 2013.

The 2013 amendments address two principal areas of concern. First, the 2013 amendments provide an exception from the general rule subjecting the RIC or the REIT to section 1374 treatment in the case of a transfer of property by a C corporation to a RIC or a REIT to the extent the transfer qualifies for nonrecognition treatment under section 1031 (relating to like-kind exchanges) or section 1033 (relating to involuntary conversions). The Treasury Department and the IRS did not extend this treatment to all exchanged basis transactions, such as exchanges that would otherwise qualify for nonrecognition treatment under section 351 of the Code, out of concern that such an exception could create opportunities to avoid corporate-level tax on built-in gains. Second, the 2013 amendments provide an exception for conversion transactions in which the C corporation that owned the converted property is a tax-exempt entity to the extent that gain would not be subject to tax if a deemed sale election were made. In such circumstances, the C corporation is not required to make a deemed sale election, and the RIC or the REIT is not subject to section 1374 treatment.

5. Notice 2015–59 and Revenue Procedure 2015–43

Congress, the Treasury Department, and the IRS are aware of transactions in which a C corporation that does not qualify as a REIT distributes the stock of a controlled corporation in a transaction intended to qualify under section 355 so that either the distributing corporation or the controlled corporation can qualify as a REIT. In many cases, a C corporation that owns both assets qualifying as real estate assets for purposes of part II, subchapter M, chapter 1 of the Code (REIT-qualifying assets) and assets that do not so qualify (non-qualifying assets) transfers either the REIT-qualifying assets or the non-qualifying assets to a controlled corporation in exchange for its stock and then distributes the controlled corporation stock to its shareholders. Before or after the distribution, the corporation holding the REIT-qualifying assets elects REIT status. If the transaction satisfies the requirements of sections 368(a)(1)(D), 355, and 361, no gain is recognized on either the transfer of assets by the distributing corporation to the controlled corporation or the distribution of the controlled corporation stock to the shareholders of the distributing corporation.

Prior to the enactment of the PATH Act, the IRS issued Notice 2015–59 (2015–40 I.R.B. 467) and Revenue Procedure 2015–43 (2015–40 I.R.B. 495) on September 14, 2015, in part to respond to the transactions described in the preceding paragraph. Revenue Procedure 2015–43 provides that the IRS will not ordinarily issue a ruling relating to the qualification under section 355 and related provisions of a distribution in certain circumstances in which property owned by the distributing corporation or the controlled corporation becomes the property of a RIC or a REIT. Notice 2015–59 states that such transactions ''may circumvent the purposes of Code provisions intended to repeal the Supreme Court's decision'' in *General Utilities,* such as section 337(d). The Notice also requested comments with respect to the facts and circumstances relevant to whether such transactions circumvent the purposes of *General Utilities* repeal. The Treasury Department and the IRS are aware of informal commentary, but no formal comments have been received.

Explanation of Provisions

The Treasury Department and the IRS believe that section 1374 treatment imposes an appropriate regime for recognizing built-in gain for many conversion transactions. The Treasury Department and the IRS are concerned, however, that section 1374 treatment may not adequately implement the purposes of *General Utilities* repeal if a taxpayer effects a tax-free separation of REIT-qualifying assets from non-qualifying assets in a section 355 distribution (the related section 355 distribution) and the REIT-qualifying assets become the assets of a REIT. After such transactions, gain on the assets held by the REIT may not be taxed at the corporate level because such gain is unlikely to be recognized within the recognition period during which the REIT is subject to section 1374 treatment under the final regulations in § 1.337(d)–7. In contrast, without a section 355 distribution, a taxpayer generally could not separate REIT-qualifying assets from non-qualifying assets and cause one corporation to hold the REIT-qualifying assets and another corporation to hold the non-qualifying assets except by means of a sale or exchange to which section 1001 applies or a distribution to which section 311(b) applies.

Moreover, the REIT and its shareholders may realize the benefit of appreciation on converted property without a transaction subject to section 1374 treatment or otherwise taxable at the corporate level. For example, a REIT that distributes rental income on appreciated converted property to its shareholders may be entitled to a dividends paid deduction under section 562 and, therefore, effectively does not pay income tax at the REIT level on that income, which in many cases will

reflect the appreciation in the value of the property. Additionally, if the lessee is a C corporation (such as the other party to the section 355 distribution), the rental deductions reduce the C corporation's taxable income. In such circumstances, the Treasury Department and the IRS have determined that section 355 does not serve as a ''limited exception to *General Utilities* repeal intended to enable historic shareholders to carry on their historic businesses in separate corporations'' but rather creates an ''opportunity to avoid the general rule that corporate-level tax is recognized when an asset . . . is disposed of.'' 136 Cong. Rec. S15704.

Section 311 of the PATH Act addresses some of the concerns just described. However, the Treasury Department and the IRS are concerned that some variations of the transactions previously described may continue to be used to circumvent the purposes of section 311 of the PATH Act. In particular, there is concern that corporations affiliated with the distributing corporation or the controlled corporation could be used to circumvent the Congressional policy implemented through section 311 of the PATH Act. The Treasury Department and the IRS thus have determined that temporary regulations are necessary to prevent abuses of sections 355(h) and 856(c)(8) and to further the purposes of *General Utilities* repeal.

Therefore, the Treasury Department and the IRS are issuing these temporary regulations providing that a C corporation engaging in a conversion transaction involving a REIT within the ten-year period following a related section 355 distribution is treated as making an election to recognize gain and loss as if it had sold all of the converted property to an unrelated party at fair market value on the deemed sale date (as defined in § 1.337(d)–7(c)(3)). Section 1374 treatment is accordingly not available in these cases as an alternative to recognizing any gain with respect to the converted property on the deemed sale date.

The temporary regulations also provide that a REIT that is a party to a section 355 distribution occurring within the ten-year period following a conversion transaction for which a deemed sale election has not been made recognizes any remaining unrecognized built-in gains and losses resulting from the conversion transaction (after taking into account the impact of section 1374 in the interim period, as described subsequently).

For the taxable year in which the related section 355 distribution occurs, the REIT's net recognized built-in gain is the amount of its net unrealized built-in gain limitation (as defined in § 1.1374–2(a)(3)) for such taxable year. For this purpose, the limitations in § 1.1374–2(a)(1) and (2) do not apply because the net unrealized built-in gain limitation generally achieves the effect of a deemed sale election, adjusted for prior recognized built-in gains and recognized built-in losses. As a result, the temporary regulations cause the REIT to recognize any built-in gains or losses attributable to time periods in which the REIT was a C corporation while ensuring that gains and losses recognized in previous taxable years during the recognition period on which taxes have been paid are accounted for appropriately. The temporary regulations provide an appropriate increase to the basis of the converted property held by the REIT.

Consistent with section 311 of the PATH Act, the temporary regulations contain two exceptions. First, the temporary regulations do not apply if both the distributing corporation and the controlled corporation are REITs immediately after the date of the section 355 distribution and at all times during the two years thereafter. Second, the temporary regulations also do not apply to certain section 355 distributions in which the distributing corporation is a REIT and the controlled corporation is a taxable REIT subsidiary. In addition, and consistent with the effective date in section 311(c) of the PATH Act, the temporary regulations under § 1.337(d)–7T(f) do not apply to distributions pursuant to a transaction described in a ruling request initially submitted to the IRS on or before December 7, 2015, which request has not been withdrawn and with respect to which a ruling has not been issued or denied in its entirety as of December 7, 2015.

To prevent avoidance, these temporary regulations apply to predecessors and successors of the distributing corporation or the controlled corporation and to all members of the separate affiliated group, within the meaning of section 355(b)(3)(B), of which the distributing corporation or the controlled corporation are members. Predecessors and successors include corporations that succeed to and take into account items described in section 381(c) of the distributing corporation or the controlled corporation, and corporations having such items to which the distributing corporation or the controlled corporation succeed and take into account.

The temporary regulations also make a clarifying amendment to the generally applicable rules of § 1.337(d)–7 in response to section 127 of the PATH Act, which amended Code section 1374(d)(7) to provide that the term ''recognition period'' means the 5-year period beginning with the first day of the first taxable year for which a corporation was an S corporation. The temporary regulations replace the term ''10-year recognition period'' with the new defined term ''recognition period'' and clarify that the recognition period is no longer determined by reference to section 1374(d)(7), but is the ten-year period beginning on the first day of the RIC or the REIT's first taxable year (in the case of a conversion transaction that is a qualification of a C corporation as a RIC or a REIT) or on the date the property is acquired by the RIC or the REIT. As a result, after August 8, 2016, § 1.337(d)–7 will no longer be affected by section 127 of the PATH Act, which amended section 1374(d)(7) of the Code to shorten the length of the recognition period from 10 years to 5 years with respect to C corporations that elect to be, or transfer property to, S corporations.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, notices, and other guidance cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS Web site at *http://www.irs.gov.*

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13653. Therefore, a regulatory impact assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. chapter 5) does not apply to these regulations because good cause exists under section 553(b)(3)(B) of the APA to dispense with notice and public comment because doing so would be contrary to the public interest. These temporary regulations are necessary to prevent abuse of section 311 of the PATH Act through certain section 355 distributions that would contradict the intent of Congress. These temporary regulations are also necessary to update existing regulations under § 1.337(d)–7 to delink the determination of the recognition period from the rules of section 1374(d)(7) modified by the enactment of section 127 of the PATH Act. Accordingly, good cause exists for dispensing with notice and public

comment pursuant to section 553(b) of the APA. In addition, pursuant to 26 U.S.C. 7805(b)(3) and section 553(d)(3) of the APA, the requirements in section 553(d) of the APA for a delayed effective date are inapplicable to the temporary regulations necessary to prevent abuse of section 311 of the PATH Act. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Austin M. Diamond-Jones, Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.337(d)–7T also issued under 26 U.S.C. 337(d) and 355(h).

* * * * *

■ **Par. 2.** Section 1.337(d)–7 is amended by:

■ 1. Revising paragraph (a)(1) and adding paragraphs (a)(2)(vi) and (vii).

■ 2. In paragraph (b)(1)(ii), removing the language ''10-year recognition period'' and adding ''recognition period'' in its place wherever it appears.

■ 3. Revising paragraph (b)(2)(iii).

■ 4. Redesignating paragraph (b)(4) as paragraph (b)(5) and adding a new paragraph (b)(4).

■ 5. Revising paragraph (c)(1).

■ 6. Redesignating paragraph (c)(6) as paragraph (c)(7) and adding a new paragraph (c)(6).

■ 7. In paragraph (d)(2)(iii), removing the language ''10-year recognition period'' and adding ''recognition period'' in its place wherever it appears.

■ 8. Redesignating paragraph (f) as paragraph (g) and adding a new paragraph (f).

■ 9. In newly redesignated paragraph (g)(1), removing the language ''(f)(2)'' and adding ''(g)(2)'' in its place.

■ 10. Revising newly redesignated paragraph (g)(2).

The additions and revisions read as follows:

§ 1.337(d)–7 Tax on property owned by a C corporation that becomes property of a RIC or REIT.

(a) *General rule.* (1) [Reserved]. For further guidance, see § 1.337(d)–7T(a)(1).

(2) * * *

(vi) through (vii) [Reserved]. For further guidance, see § 1.337(d)–7T(a)(2)(vi) through (vii).

(b) * * *

(2) * * *

(iii) [Reserved]. For further guidance, see § 1.337(d)–7T(b)(2)(iii).

* * * * *

(4) [Reserved]. For further guidance, see § 1.337(d)–7T(b)(4).

* * * * *

(c) *Election of deemed sale treatment.* (1) [Reserved]. For further guidance, see § 1.337(d)–7T(c)(1).

* * * * *

(6) [Reserved]. For further guidance, see § 1.337(d)–7T(c)(6).

* * * * *

(f) [Reserved]. For further guidance, see § 1.337(d)–7T(f).

(g) * * *

(2) *Special rules*—(i) *Conversion transactions occurring on or after August 2, 2013 and certain prior conversion transactions.* Paragraphs (a)(2)(i) through (v), (d)(1), (d)(3), (d)(4), and (e) of this section apply to conversion transactions that occur on or after August 2, 2013. However, taxpayers may apply paragraphs (a)(2)(i) through (v), (d)(1), (d)(3), (d)(4), and (e) of this section to conversion transactions that occurred before August 2, 2013. For conversion transactions that occurred on or after January 2, 2002 and before August 2, 2013, see § 1.337(d)–7 as contained in 26 CFR part 1 in effect on April 1, 2013.

(ii) through (iii) [Reserved]. For further guidance, see § 1.337(d)–7T(g)(2)(ii) through (iii).

■ **Par. 3.** Section 1.337(d)–7T is added to read as follows:

§ 1.337(d)–7T Tax on property owned by a C corporation that becomes property of a RIC or REIT.

(a) *General Rule*—(1) *Property owned by a C corporation that becomes property of a RIC or REIT.* If property owned by a C corporation (as defined in § 1.337(d)–7(a)(2)(i)) becomes the property of a RIC or a REIT in a conversion transaction (as defined in § 1.337(d)–7(a)(2)(ii)), then section 1374 treatment will apply as described in § 1.337(d)–7(b) and paragraph (b) of this section, unless the C corporation elects, or is treated as electing, deemed sale treatment with respect to the conversion transaction as provided in § 1.337(d)–7(c) and paragraph (c) of this section. See § 1.337(d)–7(d) for exceptions to this paragraph (a).

(2)(i) through (v) [Reserved]. For further guidance, see § 1.337(d)–7(a)(2)(i) through (v).

(vi) *Section 355 distribution.* The term *section 355 distribution* means any distribution to which section 355 (or so much of section 356 as relates to section 355) applies, including a distribution on which the distributing corporation recognizes gain pursuant to sections 355(d) or 355(e).

(vii) *Converted property.* The term *converted property* means property owned by a C corporation that becomes the property of a RIC or a REIT.

(b)(1) through (2)(ii) [Reserved]. For further guidance, see § 1.337(d)–7(b)(1) through (2)(ii).

(iii) *Recognition period.* For purposes of applying the rules of section 1374 and the regulations thereunder, as modified by § 1.337(d)–7(b) and paragraph (b) of this section, the term *recognition period* means the 10-year period beginning—

(A) In the case of a conversion transaction that is a qualification of a C corporation as a RIC or a REIT, on the first day of the RIC's or the REIT's first taxable year; and

(B) In the case of other conversion transactions, on the day the property is acquired by the RIC or the REIT.

(3) [Reserved]. For further guidance, see § 1.337(d)–7(b)(3).

(4) *Section 355 distribution following a conversion transaction*—(i) *In general.* If a REIT is described in paragraph (f)(1) of this section and the related section 355 distribution (as defined in paragraph (f)(1)(i) of this section) follows a conversion transaction, then for the taxable year in which the related section 355 distribution occurs, § 1.1374–2(a)(1) and (2) (as modified by § 1.337(d)–7(b)(2)(i)) do not apply, and the REIT's net recognized built-in gain for such taxable year is the amount of its net unrealized built-in gain limitation (as defined in § 1.1374–2(a)(3)) for such taxable year.

(ii) *Basis adjustment*—(A) *In general.* If a REIT recognizes gain under paragraph (b)(4)(i) of this section, the aggregate basis of the converted

property held by the REIT at the end of the taxable year in which the related section 355 distribution occurs shall be increased by an amount equal to the amount of gain so recognized, increased by the amount of the REIT's recognized built-in loss for such taxable year, and reduced by the amount of the REIT's recognized built-in gain and recognized built-in gain carryover for such taxable year.

(B) *Allocation of basis increase.* The aggregate increase in basis by reason of paragraph (b)(4)(ii)(A) of this section shall be allocated among the converted property in proportion to their respective built-in gains on the date of the conversion transaction.

(5) [Reserved]. For further guidance, see § 1.337(d)–7(b)(5).

(c) *Election of deemed sale treatment*—(1) *In general.* Section 1.337(d)–7(b) and paragraph (b) of this section do not apply if the C corporation that qualifies as a RIC or a REIT or transfers property to a RIC or a REIT makes the election described in § 1.337(d)–7(c)(5) or is treated as making such election under paragraph (c)(6) of this section. A C corporation that makes, or is treated as making, such an election recognizes gain and loss as if it sold the converted property to an unrelated party at fair market value on the deemed sale date (as defined in § 1.337(d)–7(c)(3)). See § 1.337(d)–7(c)(4) concerning limitations on the use of loss in computing gain. Section 1.337(d)–7(c) and this paragraph (c) do not apply if their application would result in the recognition of a net loss. For this purpose, net loss is the excess of aggregate losses over aggregate gains (including items of income), without regard to character.

(2) through (5) [Reserved]. For further guidance, see § 1.337(d)–7(c)(2) through (5).

(6) *Conversion transaction following a section 355 distribution.* A C corporation described in paragraph (f)(1) of this section is treated as having made the election under § 1.337(d)–7(c)(5) with respect to a conversion transaction if the conversion transaction occurs following the related section 355 distribution (as defined in paragraph (f)(1)(i) of this section) and the C corporation has not made such election.

(7) through (e) [Reserved]. For further guidance, see § 1.337(d)–7(c)(7) through (e).

(f) *Conversion transaction preceding or following a section 355 distribution*—(1) *In general.* A C corporation or a REIT is described in this paragraph (f)(1) if—

(i) The C corporation or the REIT engages in a conversion transaction involving a REIT during the twenty-year period beginning on the date that is ten years before the date of a section 355 distribution (the related section 355 distribution); and

(ii) The C corporation or the REIT engaging in the related section 355 distribution is either—

(A) The distributing corporation or the controlled corporation, as those terms are defined in section 355(a)(1); or

(B) A member of the separate affiliated group (as defined in section 355(b)(3)(B)) of the distributing corporation or the controlled corporation.

(2) *Predecessors and successors.* For purposes of this paragraph (f), any reference to a controlled corporation or a distributing corporation includes a reference to any predecessor or successor of such corporation. Predecessors and successors include corporations which succeed to and take into account items described in section 381(c) of the distributing corporation or the controlled corporation, and corporations having such items to which the distributing corporation or the controlled corporation succeeded and took into account.

(3) *Exclusion of certain conversion transactions.* A C corporation or a REIT is not described in paragraph (f)(1) of this section if—

(i) The distributing corporation and the controlled corporation are both REITs immediately after the related section 355 distribution (including by reason of elections under section 856(c)(1) made after the related section 355 distribution that are effective before the related section 355 distribution) and at all times during the two years thereafter;

(ii) Section 355(h)(1) does not apply to the related section 355 distribution by reason of section 355(h)(2)(B); or

(iii) The related section 355 distribution is described in a ruling request referred to in section 311(c) of Division Q of the Consolidated Appropriations Act, 2016, Public Law 114–113, 129 Stat. 2422.

(g) *Effective/Applicability date.* (1) [Reserved]. For further guidance, see § 1.337(d)–7(g)(1).

(2) *Special rules.* (i) [Reserved]. For further guidance, see § 1.337(d)–7(g)(2)(i).

(ii) *Conversion transactions occurring on or after June 7, 2016.* Paragraphs (a)(1), (a)(2)(vi) and (vii), (b)(4), (c)(1), (c)(6), and (f) of this section apply to conversion transactions occurring on or after June 7, 2016 and to conversion transactions and related section 355 distributions for which the conversion transaction occurs before, and the related section 355 distribution occurs on or after, June 7, 2016. For conversion transactions that occurred on or after January 2, 2002 and before June 7, 2016, see § 1.337(d)–7 as contained in 26 CFR part 1 in effect on April 1, 2016.

(iii) *Recognition period.* Paragraphs (b)(1)(ii), (b)(2)(iii), and (d)(2)(iii) of this section applies to conversion transactions that occur on or after August 8, 2016. For conversion transactions that occurred on or after January 2, 2002 and before August 8, 2016, see § 1.337(d)–7 as contained in 26 CFR part 1 in effect on April 1, 2016.

(h) *Expiration date.* The applicability of this section expires on June 7, 2019.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: May 11, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2016–13443 Filed 6–7–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0940]

RIN 1625–AA09

Drawbridge Operation Regulation; Indian Creek, Miami Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the 63rd Street Bridge across Indian Creek, mile 4.0, at Miami Beach, FL. This rule implements restrictions that allow the bridge to remain closed during peak vehicle traffic times. Bridge openings during peak vehicle traffic times cause major traffic jams that may be avoided without negatively impacting vessel traffic on the Indian Creek. Modifying the bridge operating schedule will reduce major vehicle traffic issues during rush hour times.

DATES: This rule is effective July 8, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–0940. In the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Rod Elkins with the Coast Guard; telephone 305–415–6989, email *Rodney.J.Elkins@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On February, 18, 2016, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Indian Creek, Miami Beach, FL in the **Federal Register** (81 FR 8168). We received 508 comments on this rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The 63rd Street Bridge across Indian Creek, mile 4.0, at Miami Beach, Florida is a single leaf bascule bridge. It has a vertical clearance of 11 feet at mean high water in the closed position and a horizontal clearance of 50 feet. Presently, in accordance with 33 CFR 117.5, the 63rd Street Bridge is required to open on signal for the passage of vessels. Traffic on the waterway includes both commercial and recreational vessels.

The City of Miami Beach and Miami Dade County determined through bridge studies, traffic logs, and public meetings that restricting bridge openings during peak traffic hours will significantly reduce vehicular traffic congestion. Based on this determination, the City of Miami Beach requested this action to alleviate additional traffic congestion created by bridge openings during peak hours.

In addition to changing the schedule to allow for limited openings during the regular work week, the Coast Guard is making a regulatory change that will apply during the annual boat show. Every year in mid-February the City of Miami Beach hosts the Yacht and Brokerage Show which creates unusually high vehicle and vessel traffic during the weeks before and after the show. The Coast Guard typically issues temporary deviations to the 63rd Street Bridge operations that help balance vessel and vehicle needs during those times. The Coast Guard is adopting the annual temporary deviation as part of this bridge regulation. The bridge owner, Florida Department of Transportation concurs with this Final Rule change.

IV. Discussion of Comments, Changes and the Final Rule

There were 508 comments received concerning the proposed rule. Of these comments, 497 were in favor of the proposed rule. Eight comments recommended various additional closure times that place more restrictions on bridge openings and do meet the reasonable needs of navigation. Two comments recommended openings on the hour and half hour at all times of day. The Coast Guard did not adopt these proposals because they are less restrictive than necessary to balance the needs of vehicle traffic during peak travel hours of the day and more restrictive than necessary to accommodate the reasonable needs of maritime navigation outside times of increased vehicle traffic. One comment recommended placing a toll system for openings on the bridge. This rulemaking seeks to set an operating schedule that will balance the needs of vehicle traffic with the reasonable needs of navigation. Therefore, the Coast Guard did not accept this proposal because it is outside the scope of this rulemaking.

The Coast Guard is adding § 117.293 as proposed without change.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the ability that vessels can still transit the waterway during scheduled openings. Additionally, vessels that are capable of transiting under the bridge in the closed position, may do so at any time.

B. Impact on Small Entities

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

This rule may affect the following entities, some of which might be small entities: The owners or operators of vessels that require more than eleven feet vertical clearance that need to transit the bridge during daytime closure periods. Vessels will still be allowed to transit this waterway at all times if they can clear without an opening, or at the specified times if they need the bridge open. This change in operating schedule will still meet the reasonable needs of navigation while taking into account other modes of transportation.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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.

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

about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which 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 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 rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, 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.

G. Protest Activities

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 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. Add § 117.293 to read as follows:

§ 117.293 Indian Creek.

The draw of the 63rd Street Bridge, Indian Creek mile 4.0, at Miami Beach, shall open on signal except as follows:

(a) From 7 a.m. to 7 p.m., Monday through Friday except Federal holidays, the draw need open only on the hour and half-hour.

(b) From 7:10 a.m. to 9:55 a.m. and 4:05 p.m. to 6:59 p.m., Monday through Friday except Federal holidays, the draw need not open for the passage of vessels.

(c) In February of each year during the period seven days prior to the City of Miami Beach Yacht and Brokerage Show and the four days following the show, from 10 a.m. to 4 p.m., the bridge need not open except for 10 minutes at the top of the hour. At all other times the bridge shall operate on its normal schedule.

Dated: June 2, 2016.

S.A. Buschman,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 2016–13458 Filed 6–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0145]

Safety Zone; Cincinnati Reds Season Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Cincinnati Reds Season Fireworks on the Ohio River, from mile marker 470.1 and ending at 470.4, extending 500 feet from the State of Ohio shoreline. This rule is effective during specific home games during the Major League Baseball season. Should the Cincinnati Reds make the playoffs and have additional home games; the Coast Guard will provide notification of enforcement periods via Broadcast Notices to Mariners, Local Notices to Mariners, and/or Marine Safety Information Bulletins as appropriate. This action is needed to protect vessels transiting the area and event spectators from the hazards associated with the Cincinnati Reds Barge-based fireworks. During the enforcement period, entry into or transiting in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels.

DATES: The regulations in 33 CFR 165.801, Table No. 1, Line no. 2 will be enforced from 9:00 p.m. through 11:30 p.m. on April 6, April 8, April 22, May 6, May 20, June 3, June 10, June 24, July 15, July 22, July 31, August 19, September 2, September 16, and September 30, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Caloeb Gandy, Sector Ohio Valley, U.S. Coast Guard at telephone 502–779–5334, email *caloeb.l.gandy@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the Cincinnati Reds Season Fireworks listed in 33 CFR 165.801, Table no. 1, Line no. 2. These regulations can be found in the Code of Federal Regulations, under 33 CFR 165.801 or in the **Federal Register** (77 FR 12460). As specified in § 165.801, during the enforcement period no vessel may transit this safety zone without approval from the Captain of the Port Ohio Valley (COTP). If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR part 165 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advanced notification of this enforcement period via Local Notice to Mariners (LNM) and Broadcast Notice to Mariners (BNM). If the COTP Ohio Valley determines that the regulated area need not be enforced for the full duration, a BNM to grant general permission to enter the safety zone may be used.

Dated: March 24, 2016.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2016–13584 Filed 6–7–16; 8:45 am]

BILLING CODE 9110–04–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1202

[FDMS No. NARA–16–0005; NARA–2016–021]

RIN 3095–AB91

Privacy Act of 1974; Exemptions

AGENCY: National Archives and Records Administration (NARA).

ACTION: Direct final rule.

SUMMARY: The National Archives and Records Administration (NARA) is revising its Privacy Act regulations to add a new insider threat system of records to the records exempt from release under the law enforcement exemption of the Privacy Act. This action is necessary to protect investigatory information from release that could compromise or damage the investigation, result in evidence tampering or destruction, undue influence of witnesses, danger to individuals, and similar harmful effects.

DATES: This rule is effective July 18, 2016, without further action, unless NARA receives adverse comments warranting action by July 8, 2016. If NARA receives an adverse comment warranting further action, it will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by RIN 3095–AB91, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Regulation_comments@nara.gov.* Include RIN 3095–AB91 in the subject line of the message.
- *Fax:* 301–837–0319. Include RIN 3095–AB91 in the subject line of the fax cover sheet.
- *Mail (for paper, disk, or CD–ROM submissions. Include RIN 3095–AB91 on the submission):* Regulations Comment Desk (External Policy Program, Strategy & Performance Division (SP)); Suite 4100; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001.
- *Hand delivery or courier:* Deliver comments to front desk at the address above.

Instructions: All submissions must include NARA's name and the regulatory information number for this rulemaking (RIN 3095–AB91). We may publish any comments we receive without changes, including any personal information you include.

FOR FURTHER INFORMATION CONTACT: Kimberly Keravuori, by email at *regulation_comments@nara.gov,* or by telephone at 301–837–3151.

SUPPLEMENTARY INFORMATION: The National Archives and Records Administration (NARA) is adding a system of records to its existing inventory of systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552(a)) (''Privacy Act''). The new system is NARA 45, Insider Threat Program records (we are publishing the NARA 45 SORN concurrently with this regulation), and it comprises records gathered for purposes of investigating threats to NARA facilities, personnel, or systems, or national security. The system contains investigatory material of actual, potential, or alleged criminal, civil, or administrative violations and law enforcement actions.

The Privacy Act generally grants individuals the right to access agency records maintained about themselves, and the right to request that the agency amend those records if they are not accurate, relevant, timely, or complete. However, the Privacy Act also exempts, by means of ten specific exemptions, an agency from granting a person access to information about themselves that the agency compiles for certain types of law enforcement or investigatory actions. Specifically for the purposes of this rulemaking, the Privacy Act exempts an agency from granting access to ''investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section [September 27, 1975], under an implied promise that the identity of the source would be held in confidence.'' 5 U.S.C. 552a(k)(2).

NARA currently exempts Office of Inspector General investigative files under the (k)(2) exemption. See 36 CFR 1202.92. For similar reasons, we are now adding the insider threat program files to the same regulation section because the Insider Threat Program Records system of records contains investigatory material of actual, potential, or alleged violations, compiled for law enforcement purposes. Under Office of Management and Budget (OMB) Guidelines on the Privacy Act, to qualify for this exemption the agency must compile the material for some investigative ''law enforcement'' purpose, such as a civil or criminal investigation. Multiple court decisions have upheld the exemption for investigative records covering a range of purposes from discrimination complaints (see, *e.g., Menchu* v. *HHS*, 965 F. Supp. 2d 1238, 1248 (D. Or. 2013)), fraud, waste, and abuse complaints (see, *e.g., Gowan* v. *Air Force*, 148 F.3d 1182, 1188–89 (10th Cir. 1998)), and taxpayer audits (see, *e.g., Welsh* v. *IRS*, No. 85–1024, slip op. at 2–3 (D.N.M. Oct. 21, 1986)), to civil trust fund recovery penalty investigations (see, *e.g., Berger* v. *IRS*, 487 F. Supp. 2d 482, 497–98 (D.N.J. 2007), aff'd 288 F. App'x 829 (3d Cir. 2008), cert. denied, 129 S. Ct. 2789 (2009)) and deportation investigations (see, *e.g., Shewchun* v. *INS*, No. 95–1920, slip op. at 3, 8–9 (D.D.C. Dec. 10, 1996), summary affirmance granted, No. 97–5044 (D.C. Cir. June 5, 1997)). In addition, courts have also determined that this exemption covers investigations into potential threats to national security (see, *e.g., Strang* v. *U.S. Arms Control & Disarmament Agency*, 864 F.2d 859, 862–63 n.2 (D.C. Cir. 1989) (''this case involves not a job applicant undergoing a routine check of his background and his ability to perform the job, but an existing agency employee investigated for violating national security regulations.'')

Routine background investigation files are generally not exempt under the (k)(2) exemption of the Privacy Act, but in some limited cases portions of them may be exempt under (k)(2) because they also include information that would be the subject of a law

enforcement investigation under the scope of the exemption (see, *e.g., Cohen* v. *FBI*, No. 93–1701, slip op. at 4–6 (D.D.C. Oct. 3, 1995) (finding that particular information within a background investigation file qualified as ''law enforcement'' information ''withheld out of a legitimate concern for national security,'' and that '' '[s]o long as the investigation was ''realistically based on a legitimate concern that federal laws have been or may be violated or that national security may be breached'' the records may be considered law enforcement records' '' (quoting *Vymetalik* v. *FBI*, 785 F.2d 1090, 1098 (D.C. Cir. 1986), in turn quoting *Pratt* v. *Webster*, 673 F.2d 408, 421 (D.C. Cir. 1982))).

NARA maintains a centralized hub for insider threat analysis to (1) manually and electronically gather, integrate, review, assess, and respond to information derived from internal and external sources, and (2) identify potential insider threat concerns and conduct an appropriate inquiry to resolve the concern. Section 811 of the Intelligence Authorization Act for FY 1995; executive orders 13587, 13526, 12333, and 10450; Presidential Memorandum, National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, November 21, 2012; Presidential Memorandum, Early Detection of Espionage and Other Intelligence Activities through Identification and Referral of Anomalies, August 23, 1996; and Presidential Decision Directive/NSC–12, Security Awareness and Reporting of Foreign Contacts, August 5, 1993, authorize these insider threat assessment and investigation activities. As a result, the records in this system of records qualify as investigative records compiled for law enforcement purposes under the meaning of the Privacy Act's (k)(2) exemption. NARA is revising its regulations to exempt this information from disclosure under the Privacy Act so that it can prevent these investigations from being impeded or damaged by releasing the information.

Regulatory Analysis

Review Under Executive Orders 12866 and 13563

Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (September 30, 1993), and Executive Order 13563, Improving Regulation and Regulation Review, 76 FR 23821 (January 18, 2011), 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 rule is not ''significant'' under section 3(f) of Executive Order 12866 because will not create an economic or budgetary impact, create an inconsistency or interfere with other agencies, and does not raise novel issues; it exempts certain records from certain provisions of the Privacy Act in accord with established criteria. The Office of Management and Budget (OMB) has reviewed this regulation.

Review Under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.)

This review requires an agency to prepare an initial regulatory flexibility analysis and publish it when the agency publishes the proposed rule. This requirement does not apply if the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities (5 U.S.C. 603). NARA certifies, after review and analysis, that this rule will not have a significant adverse economic impact on small entities because it does not create an economic impact and does not affect small entities; it exempts certain records from certain provisions of the Privacy Act.

Review Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements subject to the Paperwork Reduction Act.

Review Under Executive Order 13132, Federalism, 64 FR 43255 (August 4, 1999)

Review under Executive Order 13132 requires that agencies review regulations for federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, prepare a Federal assessment to assist senior policy makers. This rule will not have any direct effects on State and local governments within the meaning of the Executive Order. Therefore, the regulation requires no federalism assessment.

List of Subjects in 36 CFR Part 1202

Privacy.

For the reasons stated in the preamble, NARA proposes to amend 36 CFR part 1202 as follows:

PART 1202—REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974

■ 1. The authority citation for part 1202 remains as follows:

Authority: 5 U.S.C. 552(a); 44 U.S.C. 2104(a).

§ 1202.92 [Amended]

■ 2. Revise § 1202.92 to read as follows:

§ 1202.92 What NARA systems of records are exempt from release under the Law Enforcement Exemption of the Privacy Act?

(a) The Investigative Files of the Inspector General (NARA–23) and the Insider Threat Program Records (NARA–45) systems of records are eligible for exemption under 5 U.S.C. 552a(k)(2) because these record systems contain investigatory material of actual, potential, or alleged criminal, civil, or administrative violations, compiled for law enforcement purposes other than within the scope of subsection (j)(2) of 5 U.S.C. 552a. If you are denied any right, privilege, or benefit to which you would otherwise be entitled by Federal law, or for which you would otherwise be eligible, as a result of the record, NARA will make the record available to you, except for any information in the record that would disclose the identity of a confidential source as described in 5 U.S.C. 552a(k)(2).

(b) The systems described in paragraph (a) of this section are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1) and (e)(4), (G) and (H), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) of 5 U.S.C. 552a because releasing disclosure accounting could alert the subject of an investigation about the alleged violations, about the existence of the investigation, and about the fact that they are being investigated by the Office of Inspector General (OIG), the Insider Threat Office, or another agency. Releasing these records could provide significant information concerning the nature of the investigation and result in tampering with or destroying evidence, influencing witnesses, endangering individuals involved, and other activities that could impede or compromise the investigation.

(2) From the access and amendment provisions of subsection (d) of 5 U.S.C. 552a because access to the information contained in these systems of records could inform the subject of an investigation about an actual or potential criminal, civil, or administrative violation; about the existence of that investigation; about the nature and scope of the information and

evidence obtained on the person's activities; about the identity of confidential sources, witnesses, and law enforcement personnel; and about information that may enable the person to avoid being detected or apprehended. These factors present a serious impediment to effective law enforcement when they prevent investigators from successfully completing the investigation, endanger the physical safety of confidential sources, witnesses, and law enforcement personnel, or lead to improperly influencing witnesses, destroying evidence, or fabricating testimony. In addition, granting access to such records could disclose security-sensitive or confidential business information or information that would constitute an unwarranted invasion of the personal privacy of third parties. Amending these records could allow the subject to avoid being detected or apprehended and interfere with ongoing investigations and law enforcement activities.

(3) From subsection (e)(1) of 5 U.S.C. 552a because applying this provision could impair investigations and interfere with the law enforcement responsibilities of the OIG, the Insider Threat Office, or another agency for the following reasons:

(i) It is not possible to detect relevance or need for specific information in the early stages of an investigation, case, or matter. After the investigators evaluate the information, they may establish its relevance and need.

(ii) During an investigation, the investigating office may obtain information about other actual or potential criminal, civil, or administrative violations, including those outside the scope of its jurisdiction. The office should retain this information, as it may help establish patterns of inappropriate activity, and can provide valuable leads for Federal and other law enforcement agencies.

(iii) When interviewing individuals or obtaining other forms of evidence during an investigation, the investigator may receive information that relates to matters incidental to the primary purpose of the investigation but which may also relate to matters under the investigative jurisdiction of another office or agency. The investigator cannot readily segregate such information.

(4) From subsection (e)(4)(G) and (H) of 5 U.S.C. 552a because these systems are exempt from the access and amendment provisions of subsection (d), pursuant to subsection (k)(2) of the Privacy Act.

(5) From subsection (f) of 5 U.S.C. 552a because these systems are exempt from the access and amendment provisions of subsection (d) of 5 U.S.C. 552a, pursuant to subsection (k)(2) of the Privacy Act.

Dated: May 29, 2016.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2016–13599 Filed 6–7–16; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0300; FRL–9947–35–Region 9]

Completeness Findings for 110(a)(2)(C) State Implementation Plan Pertaining to the Fine Particulate Matter ($PM_{2.5}$) NAAQS; California; El Dorado County Air Quality Management District and Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is making a finding that the State of California has made a complete New Source Review (NSR) State Implementation Plan (SIP) submission for the El Dorado County Air Quality Management District (EDCAQMD) to address the permitting of emissions of particulate matter 2.5 micrometers (μm) in diameter and smaller ($PM_{2.5}$) from major sources in areas designated nonattainment for the 2006 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS), as required by the Clean Air Act (CAA). In addition, the EPA is making a finding that the State of California has not made the necessary NSR SIP submission for the Yolo-Solano Air Quality Management District (YSAQMD) to address the permitting of $PM_{2.5}$ emissions from major sources in areas designated nonattainment for the 2006 $PM_{2.5}$ NAAQS, as required by the EPA no later than December 31, 2014. The EPA is making these findings in accordance with section 110 and part D of Title I of the CAA.

DATES: The effective date of this rule is July 8, 2016.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, Air Division (Air–3), Environmental Protection Agency, Region 9, 75 Hawthorne St., San Francisco, CA 94105; telephone (415) 972–3534; email *yannayon.laura@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedures Act, *5 U.S.C. 553(b)(B),* provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions to meet the requirement by the statutory date. No additional fact gathering is necessary. Thus, notice and public procedure are unnecessary. The EPA finds this constitutes good cause under *5 U.S.C. 553(b)(B).*

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

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I. Background and Overview

A. Relevant $PM_{2.5}$ NAAQS

On October 17, 2006, the EPA promulgated revisions to the NAAQS for $PM_{2.5}$ with an effective date of December 18, 2006 (71 FR 61144). With these revisions, the EPA lowered the 24-hour NAAQS for $PM_{2.5}$ from 65 μg/m^3 to 35 μg/m^3, and retained the existing annual $PM_{2.5}$ NAAQS of 15 μg/m^3. The EPA promulgated designations for the 2006 $PM_{2.5}$ NAAQS that became effective on December 14, 2009, which designated certain areas within the jurisdiction of EDCAQMD and YSAQMD as nonattainment for the 2006 $PM_{2.5}$ NAAQS (74 FR 58688, Nov. 13, 2009).

B. Revisions to the NSR Program To Implement the 2006 $PM_{2.5}$ NAAQS

To implement the $PM_{2.5}$ NAAQS for NSR purposes, the EPA issued a final rule that established the NSR permitting requirements for $PM_{2.5}$, entitled *Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$),* on May 16, 2008 (73 FR 28321). Among other things, the final rule

amended the NSR regulations to establish the minimum elements for state and local agencies implementing a nonattainment NSR program for major sources for the $PM_{2.5}$ NAAQS. The final rule required states to submit SIP revisions to address these requirements to the EPA by July 15, 2011.

In 2013, certain provisions of EPA's May 16, 2008 final rule were affected by a judicial decision, Natural Resources Defense Council (NRDC) v. EPA, 706 F.3d 428 (D.C. Cir. 2013), in which the U.S. Court of Appeals for the D.C. Circuit determined that the EPA must regulate $PM_{2.5}$ in nonattainment areas under the particulate-matter-specific provisions of subpart 4 of part D of Title I of the CAA. As a partial response to this judicial decision, the EPA finalized a rulemaking on June 2, 2014 which, among other things, set a new date of December 31, 2014 for states to submit SIP revisions to address applicable nonattainment SIP requirements for $PM_{2.5}$, pursuant to subpart 4 of part D of Title I of the CAA. 79 FR 31566. Accordingly, states are required to have submitted all elements of a nonattainment NSR SIP for the 2006 $PM_{2.5}$ NAAQS to the EPA by no later than December 31, 2014.

II. This Action

A. Completeness Determination

The EPA is making a finding that the State of California submitted an NSR SIP revision for EDCAQMD to address NSR requirements for major sources in nonattainment areas for purposes of the 2006 $PM_{2.5}$ NAAQS on March 21, 2016, which the EPA determined met the completeness criteria in 40 CFR part 51, appendix V, on March 30, 2016. This completeness finding establishes a 12-month deadline for EPA to take action upon such SIP submission in accordance with section 110(k).

B. Finding of Failure To Submit

The EPA is making a finding that, as of the date of signature for this document, the State of California has failed to submit the required NSR program SIP revision for YSAQMD to address NSR requirements for major sources in nonattainment areas for purposes of the 2006 $PM_{2.5}$ NAAQS as required by December 31, 2014. This action will be effective on July 8, 2016.

If the EPA finds that a state has failed to make a required SIP submission or that a submitted SIP submission is incomplete for elements of a part D, Title I plan for nonattainment areas as required under section 110(a)(2)(I), then CAA section 179(a) establishes specific consequences, including the imposition of mandatory sanctions for the affected area. Additionally, such a finding triggers an obligation under CAA section 110(c) for the EPA to promulgate a Federal Implementation Plan (FIP) no later than 2 years from the effective date of such finding of failure to submit, if the affected state has not submitted, and the EPA has not approved, the required SIP submission before that date.

In this case, if the EPA has not affirmatively determined that the State of California has made the required complete NSR program SIP submission for YSAQMD to address NSR requirements for major sources in nonattainment areas for purposes of the 2006 $PM_{2.5}$ NAAQS within 18 months of the effective date of this rulemaking, then, pursuant to CAA section 179(a) and (b) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b)(2) will apply in the affected nonattainment areas. In addition, if the EPA has not affirmatively determined that the State has made such a complete submission within 6 months after the offset sanction is imposed, then the highway funding sanction will apply in the affected nonattainment areas, in accordance with CAA section 179(b)(1) and 40 CFR 52.31. The sanctions will not take effect, if, within 18 months after the effective date of this finding of failure to submit, the EPA finds that the State has made a complete SIP submission addressing the deficiency for which the finding was made. Additionally, if the State makes the required SIP submission and the EPA takes final action to approve the submission within 2 years of the effective date of this finding, the EPA is not required to promulgate a FIP for the affected nonattainment areas per CAA section 110(c).

III. Statutory and Executive Order Reviews

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 an information collection burden under the provisions of the PRA. This final rule does not establish any new information collection requirement apart from what is already required by law. This rule relates to the requirement in the CAA for states to submit nonattainment NSR SIPs for major sources to satisfy certain NSR requirements under the CAA for the $PM_{2.5}$ NAAQS.

C. Regulatory Flexibility Act (RFA)

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action relates to the requirement in the CAA for states to submit nonattainment NSR SIPs for major sources to satisfy certain NSR requirements of the CAA for the $PM_{2.5}$ NAAQS.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

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.

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 addresses the requirement in the CAA for states to submit nonattainment NSR SIPs for major sources to satisfy certain NSR requirements under the CAA for the $PM_{2.5}$ NAAQS. No tribe is subject to this requirement. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it provides EPA's finding that the State of California has failed to make a submission for YSAQMD that is required under the CAA to implement the $PM_{2.5}$ NAAQS, and does not directly or disproportionately affect children.

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

The 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. In finding that the State of California has failed to submit a SIP to address certain basic permitting requirements for the $PM_{2.5}$ NAAQS, for YSAQMD, this action does not directly affect the level of protection provided for human health or the environment.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 8, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: May 26, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2016–13491 Filed 6–7–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GN Docket No. 12–268, WT Docket Nos. 14–70, 05–211, RM–11395; FCC 15–80]

Updating Competitive Bidding Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) approved on May 23, 2016, an information collection for FCC Form 611–T, FCC Wireless Telecommunications Bureau Annual Report Related to Eligibility for Designated Entity Benefits and 47 CFR 1.2110(n) contained in the Report and Order, FCC 15–80. 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 1.2110(n), published at 80 FR 56764 on September 18, 2015 and revised FCC Form 611–T, are effective on July 8, 2016.

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

SUPPLEMENTARY INFORMATION: This document announces that, on May 23, 2016, OMB approved the information collection requirements for FCC Form 611–T, FCC Wireless Telecommunication Bureau Annual Report Related to Eligibility for Designated Entity Benefits and 47 CFR 1.2110(n) contained in the Report and Order, FCC 15–80. The OMB Control Number is 3060–1092. 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, 3060–1092, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *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 May 23, 2016, for the information collection requirements contained in the information collection 3060–1092. Under 5 CFR 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 3060–1092. The foregoing document 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: 3060–1092.

OMB Approval Date: May 23, 2016.

OMB Expiration Date: January 31, 2017.

Title: Interim Procedures for Filing Applicants Seeking Approval for Designated Entity Reportable Eligibility Events and Annual Reports.

Form Number: FCC Form 611–T and FCC Form 609–T (only Form 611–T was revised with this submission to OMB).

Respondents: Business or other for-profit entities; Not for Profit Institutions; and State, Local or Tribal Government.

Number of Respondents and Responses: 1,100 respondents and 2,750 responses.

Estimated Hours per Response: 0.50 to 6 hours.

Frequency of Response: On occasion and annual reporting requirements.

Total Annual Burden: 7,288 hours.

Total Annual Costs: 2,223,375.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C. 4(i), 308(b), 309(j)(3) and 309(j)(4).

Nature and Extent of Confidentiality: There is no need for confidentiality required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On July 20, 2015, the Commission released the *Part 1 R&O* in which it updated many of its Part 1 competitive bidding rules (*See Updating Part 1 Competitive Bidding Rules; Expanding the Economic and*

Innovation Opportunities of Spectrum Through Incentive Auctions; Petition of DIRECTV Group, Inc. and EchoStar LLC for Expedited Rulemaking to Amend Section 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or for Interim Conditional Waiver; Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures, Report and Order, Order on Reconsideration of the First Report and Order, Third Order on Reconsideration of the Second Report and Order, and Third Report and Order, FCC 15–80, 30 FCC Rcd 7493 (2015), modified by *Erratum,* 30 FCC Rcd 8518 (2015) (*Part 1 R&O*)). Of relevance to the information collection at issue here, the Commission amended 47 CFR 1.2110(n), which requires designated entity licensees to file with the Commission an annual report for each license it holds that was acquired using designated entity benefits and that, as of August 31 of the year in which the report is due, remains subject to designated entity unjust enrichment requirements. Because the Commission amended 47 CFR 1.2110(n), the Commission is also amending FCC Form 611–T, which is the form that is used to collect this information.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–13088 Filed 6–7–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 160303183–6183–01]

RIN 0648–BF58

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Tribal Usual and Accustomed Fishing Areas

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

ACTION: Final rule.

SUMMARY: This final rule implements the decision in *United States* v. *Washington,* 2:09–sp–00001–RSM, (W.D. Wash. Sept. 3, 2015) (Amended Order Regarding Boundaries of Quinault & Quileute U&As), which set forth certain boundaries of the usual and accustomed (U&A) fishing areas in the Pacific Ocean of the Quileute Nation (Quileute) and Quinault Indian Nation (Quinault). This action also includes related changes to NMFS regulations to provide consistency for tribal U&A fishing area boundaries across all fisheries managed by NMFS under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act).

DATES: This final rule is effective June 8, 2016.

ADDRESSES: Information relevant to this final rule are available from William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Electronic copies of this final rule are also available at the NMFS West Coast Region Web site: *http://www.westcoast.fisheries.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, phone: 206–526–6147, fax: 206–526–6736, or email: *gretchen.hanshew@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov.* Background information and documents are available at the NMFS West Coast Region Web site at *http://www.westcoast.fisheries.noaa.gov.*

Background

The Magnuson Act requires that any fishery management plan approved by the Secretary of Commerce and any implementing regulations be consistent with all provisions of the Act and ''any other applicable law.'' 16 U.S.C. 1854(b)(1). ''Other applicable law'' includes treaties with northwest Indian tribes reserving ''the right of taking fish, at all usual and accustomed grounds and stations.'' *Washington State Charterboat Association* v. *Baldrige,* 702 F.2d 820, 823 (9th Cir. 1983). For many years, NMFS has recognized that it must accommodate these treaty fishing rights regardless of whether the details of those rights have been judicially determined. In 1986, NMFS's regulations first described ''treaty fishing areas'' of the Pacific Coast treaty Indian tribes. 51 FR 16471 (May 2, 1986). For purposes of this rule, Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation. The boundary descriptions of treaty fishing areas first applied only to the Pacific halibut fishery, but in 1987 the same descriptions were adopted for the Pacific salmon fishery. 52 FR 17264 (May 6, 1987). NMFS has consistently stated that these boundaries were not intended to represent a formal determination of the boundaries of treaty fishing areas, and that they are subject to change as necessary to comport with future court orders.

In 1996, NMFS issued a final rule amending its regulations managing West Coast groundfish fisheries and describing the physical boundaries of Pacific Coast treaty Indian tribes' usual and accustomed (U&A) fishing areas. This rule described the same areas that had previously been set forth in NMFS regulations. In promulgating the rule, NMFS explained that:

> Under this rule, NMFS recognizes the same U&A areas that have been implemented in Federal salmon and halibut regulations for a number of years. The States and the Quileute tribe point out that the western boundary has only been adjudicated for the Makah tribe. NMFS agrees. NMFS, however, in establishing ocean management areas, has taken the adjudicated western boundary for the Makah tribe, and extended it south as the western boundary for the other three ocean tribes. NMFS believes this is a reasonable accommodation of the tribal fishing rights, absent more specific guidance from a court. NMFS regulations, including this regulation, contain the notation that the boundaries of the U&A may be revised by order of the court.

61 FR 28786, 28789 (June 6, 1996)

Subsequently, NMFS promulgated regulations to describe the same U&A fishing area boundaries in its regulations for coastal pelagic species and highly migratory species. 66 FR 44986 (August 27, 2001) (coastal pelagic species); 68 FR 68834 (December 10, 2003) (highly migratory species). The same boundaries are also codified in the regulations governing Pacific halibut fisheries. 50 CFR 300.64. Regulations governing Pacific salmon fisheries are not codified, but also use the same boundaries when issued on a yearly basis. *See, e.g.,* 81 FR 26157 (May 2, 2016).

Newly Adjudicated Boundaries of Pacific Coast Treaty Tribes' U&A Fishing Areas

On August 27, 2015, the United States District Court for the Western District of Washington set forth the boundaries of the U&A fishing areas for the Quileute and the Quinault. *United States* v. *Washington,* 2:09–sp–00001–RSM, (W.D. Wash. Aug. 27, 2015) (Order Regarding Boundaries of Quinault & Quileute U&As). That order was amended on September 3, 2015. *United States* v. *Washington,* 2:09–sp–00001–RSM, (W.D. Wash. Sept. 3, 2015) (Amended Order Regarding Boundaries of Quinault & Quileute U&As). This

rulemaking implements the September 3 Amended Order. These newly adjudicated boundaries differed in some respects from the boundaries that NMFS adopted in the 1996 regulations. Specifically, the adjudicated northern boundary of the Quileute's U&A fishing area and the western boundary of the Quinault's U&A fishing area differ from the 1996 regulations. Accordingly, NMFS now revises the latitude and longitude coordinates describing the tribes' U&A fishing areas, consistent with the September 3, 2015, court order. Other boundaries, and their supporting rationale as described in the June 6, 1996, rule (61 FR 28789) are not affected by this rulemaking.

Technical Revisions

The Pacific Coast treaty Indian tribal U&A fishing areas are referenced in several places within title 50, part 660. To reduce duplicative regulations and ensure consistency within title 50, part 660, regulations describing the Pacific Coast treaty Indian tribes' U&A fishing areas are consolidated and moved to § 660.4, subpart A. Cross-references to Pacific coast treaty tribes' U&A fishing areas throughout title 50, part 660 are updated. Minor changes to regulations are made to consistently refer to ''U&A fishing areas'' rather than ''U&As.''

Minor changes are also made to consistently refer to the tribes' U&A fishing areas ''within the EEZ.'' Regulations at § 660.50(c) previously described tribal U&A fishing areas as ''within the fishery management area.'' ''Fishery management area'' is defined slightly differently in the various parts and subparts within title 50, part 660, and include additional details that do not apply for the purpose of describing U&A fishing areas. The term ''fishery management area'' as it relates to Pacific Coast treaty Indian tribes' U&A fishing areas is therefore replaced with the term EEZ, which is defined at § 600.10.

All of the minor regulatory changes described in ''Technical Revisions'' are non-substantive, and intended to reduce duplicative regulations and bring consistency among the parts and subparts in title 50, part 660, regarding Pacific coast treaty Indian tribes' U&A fishing areas.

Classification

The Administrator, West Coast Region, NMFS, determined that the minor regulatory amendments associated with the Court-ordered changes to tribal U&A fishing areas, which this final rule implements, are necessary for conservation and management and are consistent with the Magnuson Act and other applicable laws.

NMFS finds good cause to waive prior public notice and comment on the revisions to regulations in this final rule under 5 U.S.C. 553(b)(3)(B) because notice and comment would be impracticable and contrary to the public interest. Affording the time necessary for notice and comment rulemaking for these changes to regulations is impracticable and contrary to the public interest because the district court has issued its final judgment and the boundaries adjudicated by the court are controlling. NMFS's regulations must be modified consistent with the court order as quickly as possible to bring them into compliance with the legal requirements. It is further necessary to act quickly to modify the tribal U&A fishing area boundaries and to make related, minor technical corrections in title 50, part 660, to prevent the confusion that arises out of conflicting boundaries, which adds complexity to the management regime and creates problems for state and Federal management and enforcement. Furthermore, NMFS is not exercising any discretion in issuing this rule, but only making the changes necessary to comply with the court order. For the same reasons, NMFS also finds good cause to waive the 30-day delay in effectiveness.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The regulations at § 660.50(d) state treaty rights ''will be implemented by the Secretary'' and regulations will be developed in consultation with the affected tribe(s). The minor regulatory amendments associated with the Court-ordered changes to tribal U&A fishing areas in this final rule have been developed following these procedures.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: June 2, 2016.

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 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. A new § 660.4 is added to subpart A to read as follows:

§ 660.4 Usual and accustomed fishing areas for Pacific Coast treaty Indian tribes.

(a) The Pacific Coast treaty Indian tribes' usual and accustomed (U&A) fishing areas within the EEZ are set out below in paragraphs (a)(1) through (a)(4) of this section. Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

(1) *Makah.* The area north of 48°02.25′ N. lat. (Norwegian Memorial) and east of 125°44′ W. long.

(2) *Quileute.* The area between 48°10.00′ N. lat. (Cape Alava) and 47°31.70′ N. lat. (Queets River) and east of 125°44.00′ W. long.

(3) *Hoh.* The area between 47°54.30′ N. lat. (Quillayute River) and 47°21.00′ N. lat. (Quinault River) and east of 125°44.00′ W. long.

(4) *Quinault.* The area between 47°40.10′ N. lat. (Destruction Island) and 46°53.30′ N. lat. (Point Chehalis) and east of 125°08.50′ W. long.

(b) [Reserved]

■ 3. In § 660.11, add a new definition for ''Usual and accustomed fishing areas'' in alphabetical order to read as follows:

§ 660.11 General definitions.

* * * * *

Usual and accustomed fishing areas or U&A fishing areas for Pacific Coast treaty Indian tribes, occurring within the EEZ, are described at § 660.4, subpart A.

* * * * *

■ 4. In § 660.12, revise paragraph (a)(14) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(14) During times or in areas where at-sea processing is prohibited, take and retain or receive Pacific whiting, except as cargo or fish waste, on a vessel in the fishery management area that already has processed Pacific whiting on board. An exception to this prohibition is provided if the fish are received within the tribal U&A fishing area, described at § 660.4, subpart A, from a member of a Pacific Coast treaty Indian tribe fishing under § 660.50, subpart C.

* * * * *

■ 5. In § 660.50, revise paragraphs (b), (c), (e)(4), and (g)(11) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(b) *Pacific Coast treaty Indian tribes.* For the purposes of this part, Pacific Coast treaty Indian tribes means the Hoh Indian Tribe, Makah Indian Tribe, Quileute Indian Tribe and the Quinault Indian Nation.

(c) *Usual and accustomed fishing areas or U&A fishing areas.* The Pacific Coast treaty Indian tribes' U&A fishing areas within the EEZ are set out in § 660.4.

* * * * *

(e) * * *

(4) *Fishing outside the U&A fishing area or without a groundfish allocation.* Fishing by a member of a Pacific Coast treaty Indian tribe outside the applicable Indian tribe's U&A fishing area, or for a species of groundfish not covered by an allocation, set-aside, or regulation under this section, is subject to the regulations in the other sections of subpart C through subpart G of this part. Treaty fisheries operating within tribal allocations are prohibited from operating outside the U&A fishing areas described at § 660.4, subpart A.

* * * * *

(g) * * *

(11) *EFH.* Measures implemented to minimize adverse impacts to groundfish EFH, as described in § 660.12 of this subpart, do not apply to tribal fisheries in their U&A fishing areas described at § 660.4, subpart A.

■ 6. In 660.112, revise paragraph (c)(2) to read as follows:

§ 660.112 Trawl fishery—prohibitions.

* * * * *

(c) * * *

(2) During times or in areas where at-sea processing is prohibited, take and retain or receive Pacific whiting, except as cargo or fish waste, on a vessel in the fishery management area that already has processed Pacific whiting on board. An exception to this prohibition is provided if the fish are received within the tribal U&A fishing area, described at § 660.4, subpart A, from a member of a Pacific Coast treaty Indian tribe fishing under § 660.50, subpart C.

* * * * *

■ 7. In § 660.518, revise paragraphs (a) and (b) to read as follows:

§ 660.518 Pacific Coast Treaty Indian Rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest CPS in their usual and accustomed fishing areas in the EEZ.

(b) For the purposes of this section, Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation, and their ''usual and accustomed fishing areas'' are described at § 660.4, subpart A.

* * * * *

■ 8. In § 660.706, revise paragraphs (a), (c), (d), (f) and (h) to read as follows:

§ 660.706 Pacific Coast Treaty Indian rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest HMS in their usual and accustomed (U&A) fishing areas in the EEZ.

* * * * *

(c) The Pacific Coast treaty Indian tribes' U&A fishing areas within the EEZ are set forth in § 660.4 of this chapter.

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented by the Secretary of Commerce, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS West Coast Regional Administrator, at least 120 days prior to the time the allocation is desired to be effective, and will be subject to public review through the Council process. The Secretary of Commerce recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary of Commerce will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

* * * * *

(f) Fishing (on a tribal allocation or under a Federal regulation applicable to tribal fisheries) by a member of a Pacific Coast treaty Indian tribe within that tribe's U&A fishing area is not subject to provisions of the HMS regulations applicable to non-treaty fisheries.

* * * * *

(h) Fishing by a member of a Pacific Coast treaty Indian tribe outside that tribe's U&A fishing area, or for a species of HMS not covered by a treaty allocation or applicable Federal regulation, is subject to the HMS regulations applicable to non-treaty fisheries.

[FR Doc. 2016–13469 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150818742–6210–02]

RIN 0648–XE667

Fisheries of the Exclusive Economic Zone Off Alaska; Other Hook-and-Line Fishery by Catcher Vessels in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish, other than demersal shelf rockfish or sablefish managed under the Individual Fishing Quota Program, by catcher vessels (C/Vs) using hook-and-line gear in the Gulf of Alaska (GOA). This action is necessary because the Pacific halibut bycatch allowance specified for the other hook-and-line fishery by C/Vs in the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), June 10, 2016, until 2400 hours A.l.t., December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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

The Pacific halibut bycatch allowance specified for the other hook-and-line fishery by C/Vs in the GOA is 129 metric tons as established by the final 2016 and 2017 harvest specifications for groundfish of the GOA (81 FR 14740, March 18, 2016).

In accordance with § 679.21(d)(6)(ii), the Administrator, Alaska Region, NMFS, has determined that the Pacific halibut bycatch allowance specified for the other hook-and-line fishery by C/Vs in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for groundfish, other than demersal shelf rockfish or sablefish managed under the Individual Fishing Quota Program, by C/Vs using hook-

and-line gear in the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

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 closure of the other hook-and-line fishery by C/Vs in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 1, 2016.

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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: June 2, 2016.

Alan D. Risenhoover,

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

[FR Doc. 2016–13454 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 110
Wednesday, June 8, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. No. AMS–NOP–15–0012; NOP–15–06]

RIN 0581–AD44

National Organic Program (NOP); Organic Livestock and Poultry Practices Proposed Rule; Extension of Comment Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: The Agricultural Marketing Service (AMS) published a proposed rule in the **Federal Register** on April 13, 2016 (71 FR 21956) on Organic Livestock and Poultry Practices. This document extends the comment period for the proposed rule for 30 days from June 13, 2016 to July 13, 2016. Multiple stakeholders requested that AMS extend the comment period due to the complexity and importance of the proposal. AMS is granting an extension.

DATES: All comments must be received on or before July 13, 2016.

ADDRESSES: Interested parties may submit written comments on the Organic Livestock and Poultry Practices proposed rule using one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Paul Lewis Ph.D., Director Standards Division, National Organic Program, USDA–AMS–NOP, Room 2646–So., Ag Stop 0268, 1400 Independence Ave. SW., Washington, DC 20250–0268.

Instructions: All submissions received must include the docket number AMS–NOP–15–0012; NOP–15–06PR, and/or Regulatory Information Number (RIN) 0581–AD44 for this rulemaking. Commenters should identify the topic and section of the proposed rule to which their comment refers. All commenters should refer to the *General Information* section in the Notice of Proposed Rulemaking for more information on preparing your comments. All comments received will be posted without change to *http://www.regulations.gov.*

Docket: For access to the docket, including background documents and comments received, go to *http://www.regulations.gov.* Comments submitted in response to this proposed rule will also be available for viewing in person at USDA–AMS, National Organic Program, Room 2646-South Building, 1400 Independence Ave. SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this proposed rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, Ph.D., Director, Standards Division. Telephone: (202) 720–3252; Fax: (202) 260–9151.

SUPPLEMENTARY INFORMATION: This notice extends the public comment period provided in the proposed rule published in the **Federal Register** on April 13, 2016 (71 FR 21956) on Organic Livestock and Poultry Practices. In the proposed rule, AMS solicits public comments generally and requests comments on specific topics. AMS is extending the comment period, which was set to end on June 13, 2016, to July 13, 2016.

AMS is proposing to amend the organic livestock and poultry production requirements by: Adding new provisions for livestock handling and transport for slaughter and avian living conditions; and expanding and clarifying existing requirements covering livestock health care practices and mammalian living conditions.

To submit comments, or access the proposed rule docket, please follow the instructions provided under the **ADDRESSES** section. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 6501–6522.

Dated: June 2, 2016.

Elanor Starmer,

Administrator, Agricultural Marketing Service.

[FR Doc. 2016–13537 Filed 6–7–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7003; Directorate Identifier 2016–CE–015–AD]

RIN 2120–AA64

Airworthiness Directives; PILATUS AIRCRAFT LTD. Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes that would supersede AD 2014–22–01. This proposed AD results from 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 a need to incorporate new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (*e.g.,* maintenance manual). We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by July 25, 2016.

ADDRESSES: You may send comments 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact PILATUS AIRCRAFT LTD., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 33 33; fax: +41 (0) 41 619 73 11; Internet: *http://www.pilatus-aircraft.com* or email: *SupportPC12@pilatus-aircraft.com* You may review copies of the 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.

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–2016–7003; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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:

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–2016–7003; Directorate Identifier 2016–CE–015–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://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

On October 20, 2014, we issued AD 2014–22–01, Amendment 39–18005 (79 FR 67343, November 13, 2014) (''AD 2014–22–01''). That AD required actions intended to address an unsafe condition on all PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2014–22–01, PILATUS AIRCRAFT LTD. has issued revisions to the Limitations section of the airplane maintenance manual to include repetitive inspections of the main landing gear (MLG) attachment bolts.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2016–0083, dated April 28, 2016 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The airworthiness limitations are currently defined and published in the Pilatus PC–12 Aircraft Maintenance Manual(s) (AMM) under Chapter 4, Structural, Component and Miscellaneous—Airworthiness Limitations Section (ALS) documents. The limitations contained in these documents have been identified as mandatory for continued airworthiness.
>
> Failure to comply with these instructions could result in an unsafe condition.
>
> EASA issued AD 2014–0170 requiring the actions as specified in ALS, Chapter 4 of AMM report 02049 issue 28, for PC–12, PC–12/45 and PC–12/47 aeroplanes, and Chapter 4 of AMM report 02300 issue 11, for PC–12/47E aeroplanes.
>
> Since that AD was issued, Pilatus issued Chapter 4 of PC–12 AMM report 02049 issue 31, and Chapter 4 of PC–12 AMM report 02300 issue 14 (hereafter collectively referred to as 'the applicable ALS' in this AD), to incorporate new six-year and ten-year inspection intervals for several main landing gear (MLG) attachment bolts, and an annual inspection interval for the MLG shock absorber attachment bolts, which was previously included in the AMM Chapter 5 annual inspection. After a further review of the in-service data, Pilatus issued Service Letter (SL) 186, extending the special compliance time applicable for the MLG bolts inspection.
>
> For the reasons described above, this AD retains the requirements of EASA AD 2014–0170, which is superseded, and requires the accomplishment of the new maintenance tasks, as described in the applicable ALS.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7003.

Related Service Information Under 1 CFR Part 51

PILATUS AIRCRAFT LTD. has issued Structural, Component and Miscellaneous—Airworthiness Limitations, document 12–A–04–00–00–00A–000A–A, dated September 28, 2015, and Structural and Component Limitations—Airworthiness Limitations, document 12–B–04–00–00–00A–000A–A, dated September 28, 2015. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of the 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 this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the 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 AD will affect 770 products of U.S. registry. We also estimate that it would take about 1.5 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 $98,175, or $127.50 per product. This breaks down as follows:

- Incorporating new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (*e.g.,* maintenance manual): .5 work-hour for a fleet cost of $32,725, or $42.50 per product.
- New inspections: MLG attachment bolts: 1 work-hour with no parts cost for fleet cost of $65,450 or $85 per product.

In addition, we estimate that any necessary corrective actions (on-condition costs) that must be taken based on the proposed inspections, would take about 1 work-hour and require parts costing approximately $100 for a cost of $185 per product. We have no way of determining the number of products that may need these necessary corrective actions. This breaks down as follows:

The only costs that would be imposed by this proposed AD over that already

required by AD 2014–22–01 is insertion of the revised Limitation section and the MLG attachment bolts inspection and replacement as necessary.

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 removing Amendment 39–18005 (79 FR 67343, November 13, 2014), and adding the following new AD:

PILATUS AIRCRAFT LTD.: Docket No. FAA–2016–7003; Directorate Identifier 2016–CE–015–AD.

(a) Comments Due Date

We must receive comments by July 25, 2016.

(b) Affected ADs

This AD replaces AD 2014–22–01, 39–18005 (79 FR 67343, November 13, 2014).

(c) Applicability

This AD applies to PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes, all manufacturer serial numbers (MSNs), certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 5: Time Limits.

(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 a need to incorporate new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (*e.g.,* maintenance manual). The limitations were revised to include repetitive inspections of the main landing gear (MLG) attachment bolts. These actions are required to ensure the continued operational safety of the affected airplanes.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(6) of this AD:

(1) Before further flight after July 13, 2016 (the effective date of this AD), insert the following revisions into the Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual):

(i) STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS, Data module code 12–A–04–00–00–00A–000A–A, dated September 28, 2015, of the Pilatus Model type—PC–12, PC–12/45, PC–12/47, Aircraft Maintenance Manual (AMM), Document No. 02049, 12–A–AM–00–00–00–I, revision 31, dated November 10, 2015; and

(ii) STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS, Data module code 12–B–04–00–00–00A–000A–A, dated September 28, 2015, of the Pilatus Model type—PC–12/47E MSN–1001–UP, Aircraft Maintenance Manual (AMM), Document No. 02300, 12–B–AM–00–00–00–I, revision 14, dated November 6, 2015.

(2) The limitations section revisions listed in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD do the following:

(i) Establish inspections of the MLG attachment bolts,

(ii) Specify replacement of components before or upon reaching the applicable life limit, and

(iii) Specify accomplishment of all applicable maintenance tasks within certain thresholds and intervals.

(3) Only authorized Pilatus Service Centers can do the Supplemental Structural Inspection Document (SSID) as required by the documents in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD because deviations from the type design in critical locations could make the airplane ineligible for this life extension.

(4) If no compliance time is specified in the documents listed in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD when doing any corrective actions where discrepancies are found as required in paragraph (f)(2)(iii) of this AD, do these corrective actions before further flight after doing the applicable maintenance task.

(5) During the accomplishment of the actions required in paragraph (f)(2) of this AD, including all subparagraphs, if a discrepancy is found that is not identified in the documents listed in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, before further flight after finding the discrepancy, contact PILATUS AIRCRAFT LTD. at the address specified in paragraph (h) of this AD for a repair scheme and incorporate that repair scheme.

(6) Within the next 6 years time-in-service after July 13, 2016 (the effective date of this AD) or within the next 3 months TIS after July 13, 2016 (the effective date of this AD), whichever occurs later, inspect the MLG attachment bolts for cracks and corrosion take all necessary corrective actions.

(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.*

(i) 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.

(ii) AMOCs approved for AD 2014–22–01, 39–18005 (79 FR 67343, November 13, 2014) are not approved as AMOCs for this AD.

(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.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2016–0083, dated April 28, 2016, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7003. For service information related to this AD, contact PILATUS AIRCRAFT LTD., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 33 33; fax: +41 (0) 41 619 73 11; Internet: *http://www.pilatus-aircraft.com* or email: *SupportPC12@pilatus-aircraft.com.* You may review copies of the 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.

Issued in Kansas City, Missouri, on May 27, 2016.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–13249 Filed 6–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6897; Directorate Identifier 2015–NM–187–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 supersede Airworthiness Directive (AD) 2015–03–01, for all Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. AD 2015–03–01 currently requires installing additional attaching hardware on the left and right fan cowl access panels and the nacelle attaching structures. Since we issued AD 2015–03–01, there have been updates to the weight and balance data needed to calculate the center of gravity for affected airplanes. This proposed AD would require weight and balance data to be included in the Weight and Balance Manual and applicable logbooks for airplanes modified per Bombardier Service Bulletin 601R–71–034, Revision B, dated August 1, 2014. The proposed AD would also require the weight and balance data to be used in order to calculate the center of gravity for affected airplanes. We are proposing this AD to prevent damage to the fuselage and flight control surfaces from dislodged engine fan cowl panels, and prevent incorrect weight and balance calculations. Incorrect weight and balance calculations may shift the center of gravity beyond approved design parameters and affect in-flight control, which could endanger passengers and crew.

DATES: We must receive comments on this proposed AD by July 25, 2016.

ADDRESSES: You may send comments 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 NPRM, 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–2016–6897; 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: Aziz Ahmed, 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 516–228–7329; 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–2016–6897; Directorate Identifier 2015–NM–187–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

On January 30, 2015, we issued AD 2015–03–01, Amendment 39–18097 (80 FR 7298, February 10, 2015) (''AD 2015–03–01''). AD 2015–03–01 requires installing additional attaching hardware on the left and right fan cowl access panels and the nacelle attaching structures. Since we issued AD 2015–03–01, we have determined it is necessary to update the weight and balance data needed to calculate the center of gravity for affected airplanes.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–20R1, dated August 12, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes The MCAI states:

> There have been a number of engine fan cowl panel dislodgement incidents reported on the Bombardier CL–600–2B19 aeroplane fleet. The dislodged panels may cause damage to the fuselage and flight control surfaces of the aeroplane. Also, the debris from a dislodged panel may result in runway contamination and has the potential of causing injury on the ground.
>
> Although the majority of the subject panel dislodgements were reported on the first or second flight after an engine maintenance task was performed that required removal and reinstallation of the subject panels, the frequency of the dislodgements indicates that the existing attachment design is prone to human (maintenance) error.

In order to mitigate the potential safety hazard of the subject panel dislodgement, Bombardier had issued Service Bulletin (SB) 601R–71–034 to install additional fasteners for the attachment of the engine fan cowl panels to the nacelle's structure. Compliance of the above SB was mandated by the original issue of [Canadian] AD CF–2014–20 dated 9 July 2014 [which corresponded to FAA AD 2015–03–01].

Bombardier has now revised the SB 601R–71–034 (to Revision C) requiring weight and balance data to be included in the Weight and Balance manual for aeroplanes modified per the subject SB. This revised [Canadian] AD is issued to mandate compliance with SB 601R–71–034, Rev C.

Required actions also include the retained actions of modifying the engine fan cowl panel. 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–2016–6897.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc. has issued Bombardier Service Bulletin, 601R–71–034, Revision C, dated May 8, 2015. The service information provides procedures for modifying the fan cowl access panels and the nacelle attaching structures. The service information also provides updated weight and balance data. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

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 497 airplanes of U.S. registry.

The actions required by AD 2015–03–01 and retained in this proposed AD take about 8 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $5,458 per product. Based on these figures, the estimated cost of the actions that are required by AD 2015–03–01 is $6,138 per product.

We also estimate that it would take about 1 work-hour 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 $42,245, 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 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 removing Airworthiness Directive (AD) 2015–03–01, Amendment 39–18097 (80 FR 7298, 8February 10, 2015), and adding the following new AD:

Bombardier Inc.: Docket No. FAA–2016–6897; Directorate Identifier 2015–NM–187–AD.

(a) Comments Due Date

We must receive comments by July 25, 2016.

(b) Affected ADs

This AD replaces AD 2015–03–01, Amendment 39–18097 (80 FR 7298, February 10, 2015) (''AD 2015–03–01'').

(c) Applicability

This AD applies to all Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Reason

This AD was prompted by dislodged engine fan cowl panels. We are issuing this AD to prevent damage to the fuselage and flight control surfaces from dislodged engine fan cowl panels, and prevent incorrect weight and balance calculations. Incorrect weight and balance calculations may shift the center of gravity beyond approved design parameters and affect in-flight control, which could endanger passengers and crew.

(f) Compliance

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

(g) Retained Fastener Installation, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2015–03–01, with revised service information. Within 6,000 flight hours after March 17, 2015 (the effective date of AD 2015–03–01): Install attaching hardware on the left and right fan cowl access panels and the nacelle attaching structures, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–71–034, Revision B, dated August 1, 2014; or Bombardier Service Bulletin 601R–71–034, Revision C, dated May 8, 2015. As of the effective date of this AD, only Bombardier Service Bulletin 601R–71–034, Revision C, dated May 8, 2015, may be used.

(h) Inserting Weight and Balance Data

Within 6,000 flight hours after the effective date of this AD, revise the applicable Weight and Balance Manual to include the weight and balance data specified in Bombardier Service Bulletin 601R–71–034, Revision C, dated May 8, 2015.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 601R–71–034, dated March 31, 2014; or Service Bulletin 601R–71–034, Revision A, dated April 28, 2014. This service information is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York 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.

(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) Global AMOC 15–36, dated August 28, 2015, is approved as an AMOC for the corresponding provisions of 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, 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.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–20R1, dated August 12, 2015. 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–2016–6897.

(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 May 18, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–12887 Filed 6–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–6115; Airspace Docket No. 16–AGL–14]

Proposed Establishment of Class E Airspace; Lakota, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Lakota, ND. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures developed at Lakota Municipal Airport, for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before July 25, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–6115 Docket No.16–AGL–14, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Raul Garza Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: 817–222–5874.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, part, A, subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace at Lakota Municipal Airport, Lakota, ND.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2016–6115/Airspace Docket No. 16–AGL–14.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Central Service Center, Operation Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document would amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within an 6-mile radius of Lakota Municipal Airport, Lakota, ND, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace designations are published in Section 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

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

* * * * *

AGL ND E5 LAKOTA, ND [New]

Lakota Municipal Airport, ND

(Lat. 48°01′44″ N., long. 098°19′33″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Lakota Municipal Airport.

Issued in Fort Worth, TX, on May 26, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–13304 Filed 6–7–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–126452–15]

RIN 1545–BN06

Certain Transfers of Property to Regulated Investment Companies [RICs] and Real Estate Investment Trusts [REITs]

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations effecting the repeal of the *General Utilities* doctrine by the Tax Reform Act of 1986. The text of those regulations also serves as part of the text of these proposed regulations. These proposed regulations would impose corporate level tax on certain transactions in which property of a C corporation becomes the property of a REIT. The proposed regulations also make an amendment not addressed in the temporary regulations. The proposed regulations affect RICs, REITs, C corporations the property of which becomes the property of a RIC or a REIT, and their shareholders.

DATES: Comments and requests for a public hearing must be received by August 8, 2016.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–126452–15), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–126452–15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *http://*

www.regulations.gov/ (IRS REG–126452–15).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Austin M. Diamond-Jones, (202) 317–5085; concerning the submission of comments or to request a public hearing, Regina Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 337(d). The temporary regulations impose corporate level tax on certain transactions in which property of a C corporation becomes the property of a REIT. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

The proposed regulations also include a modification to the definition of converted property that is not addressed in the temporary regulations. This modification treats as converted property any property the basis of which is determined, directly or indirectly, in whole or in part, by reference to the basis of property owned by a C corporation that becomes the property of a RIC or a REIT. The Treasury Department and the IRS believe that such property presents similar concerns with regard to the purposes of *General Utilities* repeal as other property of a C corporation that becomes the property of a RIC or REIT.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13653. Therefore, a regulatory impact assessment is not required. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations would not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these proposed regulations would primarily affect large corporations with a substantial number of shareholders. Therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. In particular, comments are requested regarding the scope of the terms predecessors and successors. In addition, although related section 355 distributions occurring before or after conversion transactions involving RICs do not present the same degree of concern regarding the purposes of *General Utilities* repeal, comments are requested as to whether the proposed regulations regarding related section 355 distributions should, like the rules of § 1.337(d)–7 generally, apply to both conversion transactions involving RICs and conversion transactions involving REITs. All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Austin M. Diamond-Jones of the Office of Associate Chief Counsel (Corporate). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by revising the entry for § 1.337(d)–7 to read in part as follows:

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

* * * * *

Section 1.337(d)–7 also issued under 26 U.S.C. 337(d) and 355(h).

* * * * *

■ **Par. 2.** Section 1.337(d)–7 is amended by:

■ 1. Revising paragraph (a)(1) and adding paragraphs (a)(2)(vi) and (vii).

■ 2. Revising paragraph (b)(2)(iii).

■ 3. Adding paragraph (b)(4).

■ 4. Revising paragraph (c)(1).

■ 5. Adding paragraph (c)(6).

■ 6. Adding paragraph (f).

■ 7. Revising paragraphs (g)(2)(ii) and (iii).

■ 8. Adding paragraph (g)(2)(iv).

The additions and revisions read as follows:

§ 1.337(d)–7 Tax on property owned by a C corporation that becomes property of a RIC or REIT.

(a) *General rule.* (1) [The text of the proposed amendment to § 1.337(d)–7(a)(1) is the same as the text of § 1.337(d)–7T(a)(1) published elsewhere in this issue of the **Federal Register**].

(2) * * *

(vi) [The text of the proposed amendment to § 1.337(d)–7(a)(2)(vi) is the same as the text of § 1.337(d)–7T(a)(2)(vi) published elsewhere in this issue of the **Federal Register**].

(vii) *Converted property.* The term *converted property* means property owned by a C corporation that becomes the property of a RIC or a REIT and any other property the basis of which is determined, directly or indirectly, in whole or in part, by reference to the basis of the property owned by a C corporation that becomes the property of a RIC or a REIT.

(b) * * *

(2) * * *

(iii) [The text of the proposed amendment to § 1.337(d)–7(b)(2)(iii) is the same as the text of § 1.337(d)–7T(b)(2)(iii) published elsewhere in this issue of the **Federal Register**].

* * * * *

(4) [The text of the proposed amendment to § 1.337(d)–7(b)(4) is the same as the text of § 1.337(d)–7T(b)(4) published elsewhere in this issue of the **Federal Register**].

* * * * *

(c) *Election of deemed sale treatment.* (1) [The text of the proposed amendment to § 1.337(d)–7(c)(1) is the same as the text of § 1.337(d)–7T(c)(1) published elsewhere in this issue of the **Federal Register**].

* * * * *

(6) [The text of the proposed amendment to § 1.337(d)–7(c)(6) is the same as the text of § 1.337(d)–7T(c)(6) published elsewhere in this issue of the **Federal Register**].

* * * * *

(f) [The text of the proposed amendment to § 1.337(d)–7(f) is the same as the text of § 1.337(d)–7T(f) published elsewhere in this issue of the **Federal Register**].

(g) * * *

(2) * * *

(ii) *Conversion transactions occurring on or after June 7, 2016.* Paragraphs (a)(1), (a)(2)(vi), (b)(4), (c)(1), (c)(6), and (f) of this section will apply to conversion transactions occurring on or after June 7, 2016 and to conversion transactions and related section 355 distributions for which the conversion transaction occurs before, and the related section 355 distribution occurs on or after, June 7, 2016. For conversion transactions that occurred on or after January 2, 2002 and before June 7, 2016, see § 1.337(d)–7 as contained in 26 CFR part 1 in effect on April 1, 2016.

(iii) [The text of the proposed amendment to § 1.337(d)–7(g)(2)(iii) is the same as the text of § 1.337(d)–7T(g)(2)(iii) published elsewhere in this issue of the **Federal Register**].

(iv) *Converted property.* Paragraph (a)(2)(vii) of this section applies to conversion transactions that occur on or after the date these regulations are published in the **Federal Register** as final regulations.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016–13425 Filed 6–7–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

[Docket No. MSHA–2014–0030]

RIN 1219–AB87

Examinations of Working Places in Metal and Nonmetal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) is proposing to amend the Agency's standards for the examination of working places in metal and nonmetal (MNM) mines. The purpose of this proposed rule is to ensure that mine operators identify and correct conditions that may adversely affect miners' safety or health. MSHA is proposing to require that an examination of the working place be conducted before miners begin work in an area and that the operator notifies miners in the working place of any conditions found that may adversely affect their safety or health. MSHA is also proposing that the competent person conducting the examination sign and date the examination record before the end of each shift, that the record includes information regarding adverse conditions found and corrective actions taken, and that operators make such records available to miners and their representatives. The proposal would enhance the quality of working place examinations in MNM mines and help assure that violations of mandatory health or safety standards are identified and corrected, thereby improving protections for miners.

DATES: Comments must be received or postmarked by midnight Eastern Time on September 6, 2016.

Hearing Dates: July 19, 2016, July 21, 2016, July 26, 2016, and August 4, 2016. The locations are listed in the Public Hearings section in the **SUPPLEMENTARY INFORMATION** section of this document. Post-hearing comments must be received by midnight Eastern Standard Time on September 6, 2016.

ADDRESSES: Submit comments and informational materials, identified by RIN 1219–AB87 or Docket No. MSHA–2014–0030, by one of the following methods:

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-Mail: zzMSHA-comments@dol.gov.*
- *Mail:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.
- *Hand Delivery or Courier:* 201 12th Street South, Suite 4E401, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th floor East, Suite 4E401.
- *Fax:* 202–693–9441.

Information Collection Requirements: Comments concerning the information collection requirements of this proposed rule must be clearly identified with RIN 1219–AB87 or Docket No. MSHA–2014–0030, and sent to both MSHA and the Office of Management and Budget (OMB). Comments to MSHA may be sent by one of the methods in the **ADDRESSES** section above. Comments to OMB may be sent by mail addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street NW., Washington, DC 20503, Attn: Desk Officer for MSHA.

Instructions: All submissions must include RIN 1219–AB87 or Docket No. MSHA–2014–0030. Do not include personal information that you do not want publicly disclosed; MSHA will post all comments without change, including any personal information provided.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* or *http://www.msha.gov/currentcomments.asp.* To read background documents, go to *http://www.regulations.gov.* Review the docket in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. EST Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th floor East, Suite 4E401.

E-Mail Notification: To subscribe to receive an email notification when MSHA publishes rules in the **Federal Register**, go to *http://www.msha.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Public Hearings

MSHA will hold four public hearings on the proposed rule to provide the public with an opportunity to present oral statements, written comments, and other information on this rulemaking. The public hearings will begin at 9 a.m. and end after the last presenter speaks, and in any event not later than 5 p.m., on the following dates at the locations indicated:

Date	Location	Contact number
July 19, 2016	Homewood Suites by Hilton, Salt Lake City–Downtown, 423 West 300 South, Salt Lake City, UT 84101.	(801) 363–6700

Date	Location	Contact number
July 21, 2016	Hyatt Place Pittsburgh—North Shore, 260 North Shore Drive, Pittsburgh, PA 15212.	(412) 321–3000
July 26, 2016	Mine Safety and Health Administration Headquarters, 201 12th Street, South, Rooms 7W204 & 7W206, Arlington, VA 22202.	(202) 693–9440
August 4, 2016	Sheraton Birmingham Hotel, 2101 Richard Arrington Jr. Boulevard North, Birmingham, AL 35203.	(205) 324–5000

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations. You do not have to make a written request to speak; however, persons and organizations wishing to speak are encouraged to notify MSHA in advance for scheduling purposes.

Speakers and other attendees may present information to MSHA for inclusion in the rulemaking record. The hearings will be conducted in an informal manner. Formal rules of evidence or cross examination will not apply.

A verbatim transcript of the proceedings will be prepared and made a part of the rulemaking record. Copies of the transcript will be available to the public. The transcript may also be viewed on MSHA's Web site at *http://arlweb.msha.gov/currentcomments.asp,* under Comments on Public Rule Making. MSHA will accept post-hearing written comments and other appropriate information for the record from any interested party, including those not presenting oral statements.

B. Statutory and Regulatory History

On July 31, 1969, MSHA's predecessor, the Department of the Interior's Bureau of Mines, published a final rule (34 FR 12503) addressing health and safety standards for Metal and Nonmetallic Open Pit Mines; Sand, Gravel, and Crushed Stone Operations; and Metal and Nonmetallic Underground Mines. These standards were promulgated pursuant to the 1966 Federal Metal and Nonmetallic Mine Safety Act (MNM Act). The final rule included some mandatory standards and some advisory standards. The final rule at §§ 55.18–8, 56.18–8, and 57.18–8 set forth an advisory standard stating that each working place ''should be visited by a supervisor or a designated person at least once each shift and more frequently as necessary to insure that work is being done in a safe manner.''

The Federal Mine Safety and Health Act of 1977 (Mine Act) amended the Federal Coal Mine Health and Safety Act of 1969 (Coal Act) to include MNM mines and repealed the MNM Act. The Mine Act retained the mandatory standards and regulations promulgated under the Coal Act and the MNM Act. In addition, section 301(b)(2) of the Mine Act required the Secretary of Labor to establish an advisory committee to review all advisory standards under the MNM Act and to either revoke them or make them mandatory (with or without revision). On August 17, 1979 (44 FR 48490), MSHA revised, renumbered, and made mandatory the Agency's advisory standards regarding working place examinations. This resulted in standards, set forth at §§ 55.18–2, 56.18–2, and 57.18–2, that mirrored the language that currently exists at §§ 56.18002 and 57.18002.

On January 29, 1985 (50 FR 4048), MSHA combined and recodified the standards in 30 CFR parts 55 and 56 into a single part 56 that applies to all surface MNM mines. As a part of this effort, the MNM working place examination standards were redesignated as 30 CFR 56.18002 and 57.18002. No change was made to the language of the standards.

II. Background Information

Mining continues to be one of the nation's most hazardous occupations. Mining operations have dynamic work environments where working conditions can change rapidly and without warning. Under the Mine Act, mine operators with the assistance of the miners have the primary responsibility to prevent the existence of unsafe and unhealthful conditions and practices. Compliance with safety and health standards and adoption of safe work practices provide a substantial measure of protection against hazards that cause accidents, injuries, and fatalities. MSHA has determined that effective accident prevention strategies include an examination of working places.

Under existing §§ 56.18002 and 57.18002, MSHA requires that a competent person designated by the operator examine each working place at least once each shift for conditions that may adversely affect safety or health, that the operator promptly initiate appropriate action to correct such conditions, and that the operator keep records for one year that the examinations were conducted. These standards also require the operator to withdraw persons from an area where conditions may present an imminent danger, except those persons referred to in section 104(c) of the Mine Act, until the danger is abated.

The proposal would require that operators promptly notify miners of any adverse conditions found that may adversely affect safety or health. It would also require that the examination record include additional information that MSHA believes would help assure that adverse conditions are identified and corrected, and that the record be made available to miners and their representatives so that they can be made aware of these conditions. MSHA is proposing that the record include: (1) The locations of all areas examined and a description of each condition found that could adversely affect the safety or health of miners; and (2) a description of the corrective action and date the corrective action was taken. The proposal would also require that the competent person who conducted the examination sign and date the examination record before the end of each shift.

MSHA believes that making and maintaining a record of adverse conditions found and corrective actions taken would help mine operators and miners and their representatives become more aware of potential dangers and more proactive in their approach to correcting these issues before they cause or contribute to an accident, injury, or fatality. Under this proposed rule, MSHA anticipates that improved communication at the mine site about adverse conditions and the best practices used to correct the conditions will encourage awareness and participation at all levels, fostering a culture of safety and health at the mine.

In developing the proposed rule, MSHA reviewed accident investigation reports and the Agency's enforcement data from January 2010 through mid-December 2015. During this period, 122 miners were killed in 110 accidents at MNM mines. MSHA conducted investigations into each of these 110 fatal accidents and issued 252 citations and orders for violations of 95 different mandatory safety and health standards. MSHA's analysis of the accident investigations further revealed that in

more than 60 percent of the fatal accidents (67 out of 110), the Agency had issued at least one citation or order for a violation of a mandatory safety or health standard identified in MSHA's Rules to Live By (RTLB) initiative, launched in February 2010. Violations of the 19 MNM RTLB standards represent the conditions or practices that have been most frequently cited as causing or contributing to fatal accidents.

At this point, MSHA believes that most operators and miners should be familiar with the RTLB standards. Under the proposal, the additional communication that would be required by operators (1) notifying miners of conditions that violate RTLB standards and other adverse conditions and (2) recording additional information about these conditions in the examination record should further serve to educate miners, their representatives, and operators about adverse conditions and encourage prompt corrective action. In this way, MSHA believes the proposal will help prevent fatalities and other accidents.

Over the years, MSHA has issued Program Policy Letters (PPL) regarding working place examinations, including PPL No. P94–IV–5 (1994); PPL No. P96–IV–2 (1996); PPL No. P10–IV–3 (2010); PPL No. P14–IV–01 (2014); and PPL P15–IV–01 (July 22, 2015). The PPLs are MSHA's guidance and best practices regarding compliance with the existing standards. MSHA inspectors, miners, mine operators, trainers, and the mining community use these PPLs as guidance in determining how best to comply with MSHA's standards on working place examinations.

As discussed in PPL No. P15–IV–01 and other PPLs, MSHA believes that, for a record to provide meaningful information, it should contain the following: (1) The date of the examination; (2) the examiner's name; and (3) the working places examined. As reflected in the PPLs, MSHA also believes that, as a best practice, the record should include a description of the conditions found that adversely affect safety or health.

Effective working place examinations are a fundamental accident prevention tool; they allow operators to find and fix adverse conditions and violations of health and safety standards before they cause injury or death to miners. MSHA believes that notifying miners of adverse conditions in their working place allows the miner to take appropriate precautions until the adverse condition is corrected. Records alert operators to take prompt corrective action. The following are recent examples of adverse conditions that existed for more than one shift prior to causing or contributing to a fatal accident.[1] MSHA believes that, had the person making the examination noted these conditions prior to miners working in an area, had the conditions been recorded, and had the operator warned miners about these conditions, the accidents may have been prevented.

In March 2011, a contract supervisor was fatally injured when he was struck by a section of pipe. He was supervising the operation of joining two ends of pipe using a pipe-fusion machine. The positioning cylinder was defective and had been removed from the pipe-fusion machine eight days prior to the accident. Since the positioning cylinder was removed, the machine could not hold the pipe in place. MSHA believes that, had a competent person identified and recorded the adverse condition before miners used the machine, the operator could have warned miners and removed the machine from service until the cylinder was repaired and replaced, thus preventing the fatal accident.

In January 2015, a fatal accident occurred at a phosphate rock mine. A heavy equipment operator was operating an excavator near a water-filled ditch when the excavator tipped on its side, into the water, trapping the miner inside the nearly submerged cab. The equipment operator was rescued from the cab and hospitalized, but died later that day. Three days prior to the accident, several inches of rain fell in the area causing the ditch to fill with water and overflow, making the ditch invisible to persons working in the area. MSHA believes that had a competent person conducted a workplace examination before miners started working in the area the hazard would have been identified; notification to affected miners of the water-filled ditch would have made them aware of the hazardous condition; and a record of the hazardous condition would have prompted corrective action and prevented the fatality.

Another fatal accident in March 2015 involved a haul truck driver at a sand and gravel mine. The driver was driving on an elevated roadway on an embankment next to the mine's dredge pond. The roadway, which was recently established, had no berm as a barrier to the drop-off as required by MSHA standards. The truck went off the roadway into the pond. The driver was hospitalized and died two days later. MSHA believes that the operator should have recognized during a workplace examination that a berm was not in place along the banks of the elevated haul road and warned miners before miners started work in that area. MSHA also believes that a record of this hazard likely would have prompted corrective action and that these actions would have prevented the accident that occurred.

From 2013 through 2015, there were 68 fatalities at MNM mines, as compared with 54 fatalities in the preceding three years (2010–2012). To reduce fatalities at MNM mines, MSHA has engaged, and continues to share best practices and training materials with stakeholders in the MNM industry. The Agency has provided stakeholders with guidance and compliance assistance materials to help mine operators find and fix violations of mandatory safety and health standards. These efforts included stakeholder conferences, online training sessions, and a ''walk and talk'' safety initiative in which MSHA's inspectors and field staff provided operators and miners information about potentially hazardous tasks and conditions, as well as best mining practices to prevent accidents, injuries, and fatalities. These efforts, however, have not been sufficient to address the increase in fatalities that began in 2013.

This proposed rule is intended to strengthen MSHA's requirements for MNM working place examinations to help prevent the kind of accidents discussed above. MSHA believes that the proposed requirements that operators examine working places before miners begin work in an area and notify miners of any adverse conditions that may adversely affect safety or health would assure that miners and operators are aware of hazards and take proactive actions to correct hazards. In addition, the record required under the proposed rule would help assure that adverse conditions are identified and corrected promptly.

III. Section-by-Section Analysis

This proposed rule would help reduce common causes of accidents, injuries, and fatalities at MNM mines by enhancing the effectiveness of working place examinations.

A. Sections 56.18002(a) and 57.18002(a)—Requirements for Conducting Working Place Examinations

Proposed §§ 56.18002(a) and 57.18002(a) would require an examination of each working place at least once each shift, before work begins in an area, for conditions that may adversely affect the safety or health of miners.

[1] Examples of accidents cited may be in litigation.

Existing §§ 56.2 and 57.2 define the phrase ''working place'' as: ''any place in or about a mine where work is being performed.'' In PPL No. P15–IV–01, MSHA clarifies that ''working place'' applies to all locations at a mine where miners work in the extraction or milling processes. The Agency further explains that this includes areas where work is performed on an infrequent basis, such as areas accessed primarily during periods of maintenance or clean-up, if miners will be performing work in these areas during the shift. As discussed in previous guidance, the ''working place'' would not include roads not directly involved in the mining process, administrative office buildings, parking lots, lunchrooms, toilet facilities, or inactive storage areas. Operators would be required to examine isolated, abandoned, or idle areas of mines or mills only when miners have to perform work in these areas during the shift.

The existing standards for examinations of working places in MNM mines in §§ 56.18002(a) and 57.18002(a) require that a competent person designated by the mine operator examine each working place at least once per shift for conditions that may adversely affect safety or health and promptly initiate appropriate action to correct such conditions. While the existing standards permit the examination to be made at any time during the shift, MSHA is proposing that the examination start before work begins in an area. MSHA believes that the proposal is consistent with the remedial intent of the Mine Act and the existing standards. MSHA also believes that the proposed requirement that operators conduct an examination of working places before work begins in an area would provide better protection of miners. MSHA requests comments on whether the Agency should require that examinations be conducted within a specified time period, *e.g.,* 2 hours, before miners start work in an area. Please provide specific rationale for your position, and include the merits for your argument.

Like the existing rule, the proposed rule would require that the examination be made by a competent person designated by the mine operator. In PPL No. P15–IV–01, MSHA emphasized that the competent person designated by the operator to conduct working place examinations should be able to recognize hazards and adverse conditions that are expected or known to occur in a specific work area or that are predictable to someone familiar with the mining industry. MSHA states in various PPLs that, although a best practice is for a foreman or other supervisor to conduct the examination in most cases, an experienced non-supervisory person may also be ''competent.'' The PPLs emphasized that a competent person designated by the operator under §§ 56.18002(a) and 57.18002(a) must already have the experience and training to be able to perform the examination and identify safety and health hazards.

MSHA requests comment on whether the Agency should require that the competent person conducting a working place examination have a minimum level of experience or particular training or knowledge to identify workplace hazards. The Agency requests information on whether a competent person should have a certain ability, experience, knowledge, or training that would enable the person to recognize conditions that could adversely affect safety or health. Please provide the rationale, including supporting documentation.

Proposed §§ 56.18002(a)(1) and 57.18002(a)(1) incorporate the existing requirements in §§ 56.18002(a) and 57.18002(a) that the mine operator promptly initiate action to correct conditions that may adversely affect safety or health that are found during the examination, and would add a new requirement that the operator promptly notify the miners in any affected areas of any adverse conditions found during the working place examination. MSHA believes that miners need to know about adverse conditions in their working place so that they can take precautions to avoid an accident or injury.

Proposed §§ 56.18002(a)(2) and 57.18002(a)(2) are substantively the same as existing §§ 56.18002(c) and 57.18002(c). These provisions would require that, if the competent person finds conditions that may present an imminent danger, these conditions must be brought to the immediate attention of the operator. The operator must immediately withdraw all persons from the affected area until the danger is abated, except persons referred to in section 104(c) of the Mine Act who are necessary to eliminate the imminent danger.

Imminent danger is defined in section 3(j) of the Mine Act as the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated. From January 2010 through December 2015, MSHA has issued 1,819 imminent danger orders under section 107(a) of the Mine Act in MNM mines.

B. Sections 56.18002(b) and 57.18002(b)—Requirements for Records of Working Place Examinations

MSHA believes that, to be effective, working place examinations must be timely, made by a competent person, and made in the areas where miners work. MSHA is proposing that working place examination records include additional information the Agency believes is necessary to accomplish the intent of the standards.

The proposed rule would add new requirements addressing the contents of the examination record. The introductory text to proposed §§ 56.18002(b) and 57.18002(b) would continue to require that a record of the working place examination be made. The proposed rule would add the requirement that the competent person who conducted the examination sign and date the record before the end of the shift for which the examination was made. Proposed §§ 56.18002(b)(1) and 57.18002(b)(1) would require the record to include the locations examined and a description of any adverse conditions found. MSHA believes that this proposed requirement for a description of the adverse conditions found would expedite the correction of these conditions. Proposed §§ 56.18002(b)(2)(i) through (iii) and 57.18002(b)(2)(i) through (iii) are new provisions; they would require that, if any adverse condition is found, the record must include:

- A description of the action taken to correct the adverse condition,
- The date that the corrective action was taken, and
- The name of the person who made the record of the corrective action and the date the corrective action was taken. (MSHA expects that the person taking the corrective action would make this record.)

The proposed rule would redesignate the requirement for recordkeeping in existing §§ 56.18002(b) and 57.18002(b) as proposed §§ 56.18002(b)(3) and 57.18002(b)(3). Existing §§ 56.18002(b) and 57.18002(b) require that a record that such working place examinations were conducted shall be kept by the operator for a period of one year and shall be made available for review by the Secretary or his authorized representative. The proposed rule would add new requirements that the record also be made available to miners and their representatives and that a copy be provided to the Secretary or his authorized representative or a miners' representative when they request a copy. MSHA solicits comments on these proposed requirements.

C. Request for Comments

Please provide any other data or information that would be useful to MSHA as the Agency evaluates its proposal related to working place examinations in MNM mines. Please provide the rationale and sufficient detail in your comments to enable proper Agency review and consideration. Where possible, include specific examples to support the rationale and other relevant information, including past experience, studies and articles, and standard professional practices. Include any related cost and benefit data with your submission, and information on economic and technological feasibility.

Based data reported on MSHA Form 7000–2, 90 percent of MNM mines employ fewer than 20 miners. In addition, almost all (98 percent) of MNM mines are surface operations. Over half of all MNM mines are surface sand and gravel or crushed stone operations that operate intermittently or seasonally and employ five or fewer miners. For this reason, MSHA is particularly interested in comments related to the impact of the proposed rule on small mines, particularly comments and suggestions on alternatives and best practices that small mines might use to implement more effective working place examinations.

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

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Under Executive Order (E.O.) 12866, the Agency must determine whether a regulatory action is ''significant'' and subject to review by the Office of Management and Budget (OMB). Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Based on its assessment of the costs and benefits, MSHA has determined that this proposed rule would not have an annual effect of $100 million or more on the economy and, therefore, would not be an economically significant regulatory action pursuant to section 3(f) of E.O. 12866. MSHA requests comments on all cost and benefit estimates presented in this preamble and on the data and assumptions the Agency used to develop estimates.

A. Population at Risk

The proposed rule would apply to all MNM mines in the United States. In 2014, there were approximately 11,800 MNM mines employing 145,800 miners, excluding office workers, and 75,800 contractors working at MNM mines.

Table 1 presents the number of MNM mines and employment by mine size.

TABLE 1—MNM MINES AND EMPLOYMENT IN 2014

Mine size	No. of mines	Total employment at mines, excluding office workers
1–19 Employees	10,599	52,328
20–500 Employees	1,162	73,253
501+ Employees	26	20,186
Contractors	.....	75,762
Total	11,787	221,529

Source: MSHA MSIS Data (reported on MSHA Form 7000–2) August 26, 2015.

The U.S. Department of the Interior (DOI) estimated the value of the U.S. mining industry's MNM output in 2014 to be $77.6 billion.[2] Table 2 presents the hours worked and revenue produced at MNM mines by mine size.

TABLE 2—MNM TOTAL HOURS AND REVENUES IN 2014

Mine size	Total hours reported for year	Revenue (in millions of dollars)
1–19 Employees	86,704,486	$23,539
20–500 Employees	156,402,789	$42,461
501+ Employees	42,730,947	$11,600

[2] Production revenue estimates are from DOI, U.S. Geological Survey (USGS), Mineral Commodity Summaries 2015, February 2015, page 8.

TABLE 2—MNM TOTAL HOURS AND REVENUES IN 2014—Continued

Mine size	Total hours reported for year	Revenue (in millions of dollars)
Total	285,838,222	$77,600

Source: MSHA MSIS Data (total hours worked at MNM mines reported on MSHA Form 7000–2) and estimated DOI reported mine revenues for 2014 by mine size.

B. Benefits

The proposed rule would require additional recordkeeping provisions to assure that adverse conditions are recorded and corrected. The proposed rule would provide for more detailed examination records that include essential information that the operator can use to correct recognized hazards and protect miners. The proposed provisions to record the adverse conditions found during the examinations and the corrective actions taken to mitigate the hazards, and to notify miners of the adverse conditions that may adversely affect safety or health, would better achieve the protections intended under the existing requirements. The additional information recorded in the examination records would assist MSHA, mine operators, and miners in focusing efforts on correcting hazardous conditions.

MSHA is unable to quantify the benefits from this proposed rulemaking, including the proposed provisions that an examination of the working place be conducted before miners begin work in an area; that the operator notify miners in the working place of any conditions found that may adversely affect their safety or health; and that the examination record include a description of the adverse conditions found and the corrective actions taken. MSHA anticipates, however, that there would be benefits from the proposed requirements, such as expedited correction of adverse conditions, which would be expected to result in fewer injuries and fatalities. MSHA requests information and data on the benefits from this proposed rulemaking. Please be specific to facilitate any benefits quantification that may be possible.

Net benefits under MSHA's current analysis would be negative (zero quantified benefits minus quantified costs). MSHA also believes that there would be a financial benefit to MNM mine operators who conduct working place examinations to find and fix adverse conditions and violations of health and safety standards before these conditions cause injury or death. Mine operators who conduct effective working place examinations could achieve a financial benefit from reduced penalties. From January 2010 through December 2015, penalties for MNM mine operators were $152 million for violations of all mandatory safety and health standards.

C. Compliance Costs

The quantified cost associated with this proposed rule would be the additional cost for the expanded recordkeeping requirements. Some mine operators already conduct and record working place examinations that satisfy the proposed requirements and would have little or no additional cost. Many adverse conditions found during the working place examination are corrected immediately before miners have an opportunity to encounter the condition; therefore, MSHA also believes that the cost associated with examining areas before miners begin work in that area and with notifying miners of any adverse conditions would be de minimis. MSHA requests information and data on the costs of this proposed rulemaking.

For the purpose of this analysis, MSHA estimates that the competent person making the record of the examination of working places would earn $31.14 (including benefits). The wage rate is from U.S. Metal and Industrial Mineral Mine Salaries, Wages, and Benefits—2012 Survey Results, InfoMine USA, Inc., 2012. MSHA updated rates from 2012 to 2014 for inflation using a percent change of 3.8 percent derived from the BLS Employment Cost Index (CIU2010000405000I), total compensation for private industry workers in construction, extraction, farming, fishing, and forestry occupations (Index available at *http://data.bls.gov/timeseries/CIU2010000405000I*).

MSHA also estimates that—

- Mines with 1–19 employees operate one shift per day, 300 days per year; and
- Mines with 20+ employees operate two shifts per day, 300 days per year.

MSHA recognizes that there are many seasonal and intermittent mines that would be covered by this proposed rule. MSHA requests information and data on the Agency's estimates on the number of days per year a mine operates; the number of working place examinations made each shift; the number of competent persons required to conduct multiple examinations during a single shift; the amount of time required to record the examination and record corrective actions taken; and the number of shifts per day, by mine size.

Records of Working Place Examinations

The proposed rule would revise existing §§ 56.18002(b) and 57.18002(b) by adding requirements that the record of the examination include the locations of all areas examined and a description of each adverse condition found, and that the competent person conducting the examination sign and date this record before the end of the shift for which the examination was made. Also, if an adverse condition is found, the record must include a description of the actions taken to correct the adverse condition, the date that corrective action was taken, and the name of the person updating the record as well as the date the record was updated. MSHA expects that the person taking the corrective action would update the record on completion of the corrective action. MSHA has no data on the number of corrective actions that would be recorded under this proposed rule. However, the Agency believes that the time to record the corrective actions would be minimal at best.

MSHA estimates that it will take a competent person approximately 5 additional minutes to make the record after each examination. MSHA estimates that the annual cost of making this record for all MNM mines is approximately $10.1 million:

- $8.3 million in mines with 1–19 employees (10,599 mines × 1 exam/day × 300 days/yr × 5 mins × $31.14/hr);
- $1.8 million in mines with 20–500 employees (1,162 mines × 2 exams/day × 300 days/yr × 5 mins × $31.14/hr); and
- $40,482 in mines with 501+ employees (26 mines × 2 exams/day × 300 days/yr × 5 mins × $31.14/hr).

Discounting

Discounting is a technique used to apply the economic concept that the preference for the value of money decreases over time. In this analysis,

MSHA provides cost totals at zero, 3, and 7 percent discount rates. The zero percent discount rate is referred to as the undiscounted rate. MSHA used the Excel Net Present Value (NPV) function to determine the present value of costs and computed an annualized cost from the present value using the Excel PMT function.[3] The negative value of the PMT function provides the annualized cost over 10 years at a 3 and 7 percent discount rate.

Summary of Costs

MSHA estimates that the total undiscounted cost of the proposed rule over a 10-year period would be approximately $101.0 million, $86.2 million at a 3 percent rate, and $70.9 million at a 7 percent rate. The total undiscounted cost annualized over 10 years would be approximately $10.1 million per year, $9.8 million per year at a 3 percent rate, and $9.4 million per year at a 7 percent rate.

V. Feasibility

A. Technological Feasibility

The proposed rule contains recordkeeping requirements; the proposed rule is not technology-forcing. MSHA concludes that the rule is technologically feasible.

B. Economic Feasibility

MSHA has traditionally used a revenue screening test—whether the yearly impacts of a regulation are less than one percent of revenues—to establish presumptively that the regulation is economically feasible for the mining community. The proposed rule is projected to cost approximately $10.1 million per year and the MNM industry has estimated annual revenues of $77.6 billion, which is less than one percent of revenues. MSHA concludes that the proposed rule would be economically feasible for the MNM mining industry.

VI. Regulatory Flexibility Analysis and Small Business Regulatory Enforcement Fairness Act

Pursuant to the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), MSHA has analyzed the impact of the proposed rule on small entities. Based on that analysis, MSHA certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. The Agency, therefore, is not required to develop an initial regulatory flexibility analysis. The factual basis for this certification is presented below.

A. Definition of a Small Mine

Under the RFA, in analyzing the impact of a rule on small entities, MSHA must use the Small Business Administration's (SBA's) definition for a small entity, or after consultation with the SBA Office of Advocacy, establish an alternative definition for the mining industry by publishing that definition in the **Federal Register** for notice and comment. MSHA has not established an alternative definition and, therefore, must use SBA's definition. The SBA defines a small entity in the mining industry as an establishment with 500 or fewer employees.

MSHA has also examined the impact of the proposed rule on mines with fewer than 20 employees, which MSHA and the mining community have traditionally referred to as ''small mines.'' These small mines differ from larger mines not only in the number of employees, but also in economies of scale in material produced, in the type and amount of production equipment, and in supply inventory. Therefore, the impact of MSHA's rules and the costs of complying with them will also tend to differ for these small mines. This analysis complies with the requirements of the RFA for an analysis of the impact on ''small entities'' using both SBA's definition for small entities in the mining industry and MSHA's traditional definition.

B. Factual Basis for Certification

MSHA initially evaluates the impacts on small entities by comparing the estimated compliance costs of a rule for small entities in the sector affected by the rule to the estimated revenues for the affected sector. When estimated compliance costs are less than one percent of the estimated revenues, the Agency believes it is generally appropriate to conclude that there is no significant economic impact on a substantial number of small entities. When estimated compliance costs exceed one percent of revenues, MSHA investigates whether further analysis is required. MSHA projects that the proposed compliance costs of $10.1 million for MNM mines with 1 to 500 employees is less than one percent of the $66 billion revenue of these mines in 2014. Proposed compliance costs for MNM mines with 1 to 19 employees is $8.3 million, which is less than one percent of the $23.5 billion revenue of these mines in 2014.

VII. Paperwork Reduction Act of 1995

A. Summary

This proposed rule contains changes that affect the burden in an existing paperwork package with OMB Control Number 1219–0089. MSHA estimates that the proposed rule will result in 324,375 additional burden hours with an associated additional cost of approximately $10.1 million annually. MSHA requests information and data on the Agency's estimates used to calculate the additional burden hours in the information collection package for this proposed rule.

Records of Working Place Examinations

Proposed §§ 56.18002(b)(1) and (2) and 57.18002(b)(1) and (2) would revise the existing provisions in §§ 56.18002(b) and 57.18002(b) by requiring competent persons to include in the record of the examination: (1) The locations of all areas examined, (2) a description of any adverse condition found, (3) a description of the actions taken to correct the adverse condition, and (4) the date that corrective action was taken. The competent person must sign and date this record before the end of the shift for which the examination was made. Also, if the record is updated, it must include the date and name of the person updating the record.

MSHA estimates that a MNM competent person who conducts working place examinations earns $31.14 an hour (includes benefits, see cost section above). MSHA estimates that—

- Mines with 1–19 employees operate one shift per day, 300 days per year;
- Mines with 20–500 employees operate two shifts per day, 300 days per year; and
- Mines with 501+ employees operate two shifts per day, 300 days per year.

MSHA's estimates of MNM mine operators' additional annual burden hours and burden hour costs for examination records are presented below.

Additional Burden Hours

- 10,599 mines (with 1–19 employees) × 1 exam × 300 days × 5 min = 264,975 hr
- 1,162 mines (with 20–500 employees) × 2 exams × 300 days × 5 min = 58,100 hr
- 26 mines (with >500 employees) × 2 exams × 300 days × 5 min = 1,300 hr
- Total Burden Hours = 324,375 hr

Additional Burden Hour Costs

- Total Burden Hour Costs = 324,375 hr × $31.14/hr = $10,101,038

There are no other associated burden hour costs because the proposed rule

[3] Office of Management and Budget, Office of Information and Regulatory Affairs, Regulatory Impact Analysis: Frequently Asked Questions, February 7, 2011. [*http://www.whitehouse.gov/sites/default/files/omb/assets/OMB/circulars/a004/a-4_FAQ.pdf.*]

only adds documentation requirements to a record already required by existing standards.

B. Procedural Details

The information collection package for this proposed rule has been submitted to OMB for review under 44 U.S.C. 3504, paragraph (h) of the Paperwork Reduction Act of 1995, as amended. Comments on the information collection requirements should be sent to both OMB and MSHA. Addresses for both offices can be found in the **ADDRESSES** section of this preamble.

VIII. Other Regulatory Considerations

A. The Unfunded Mandates Reform Act of 1995

MSHA has reviewed the proposed rule under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). MSHA has determined that this proposed rule does not include any federal mandate that may result in increased expenditures by State, local, or tribal governments; nor will it increase private sector expenditures by more than $100 million (adjusted for inflation) in any one year or significantly or uniquely affect small governments. Accordingly, the Unfunded Mandates Reform Act requires no further Agency action or analysis.

B. The Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 (5 U.S.C. 601 note) requires agencies to assess the impact of Agency action on family well-being. MSHA has determined that this proposed rule will have no effect on family stability or safety, marital commitment, parental rights and authority, or income or poverty of families and children. Accordingly, MSHA certifies that this proposed rule would not impact family well-being.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

Section 5 of Executive Order (E.O.) 12630 requires Federal agencies to ''identify the takings implications of proposed regulatory actions . . . .'' MSHA has determined that this proposed rule does not include a regulatory or policy action with takings implications. Accordingly, E.O. 12630 requires no further Agency action or analysis.

D. Executive Order 12988: Civil Justice Reform

Section 3 of Executive Order (E.O.) 12988 contains requirements for Federal agencies promulgating new regulations or reviewing existing regulations to minimize litigation by eliminating drafting errors and ambiguity, providing a clear legal standard for affected conduct rather than a general standard, promoting simplification, and reducing burden. MSHA has reviewed this proposed rule and has determined that it would meet the applicable standards provided in E.O. 12988 to minimize litigation and undue burden on the Federal court system.

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

MSHA has determined that this proposed rule will have no adverse impact on children. Accordingly, E.O. 13045 requires no further Agency action or analysis.

F. Executive Order 13132: Federalism

MSHA has determined that this proposed rule does not have federalism implications because 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. Accordingly, E.O. 13132 requires no further Agency action or analysis.

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

MSHA has determined that this proposed rule does not have tribal implications because it will not have substantial direct effects 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. Accordingly, E.O. 13175 requires no further Agency action or analysis.

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

Executive Order 13211 requires agencies to publish a statement of energy effects when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed this proposed rule for its energy effects because the proposed rule applies to the metal and nonmetal mining sector. Although this proposed rule will result in yearly costs of approximately $10.1 million to the metal and nonmetal mining industry, only the impact on uranium mines is applicable in this case. MSHA data show only three active uranium mines in 2014. The Energy Information Administration's annual uranium report for 2014 [4] shows 4.7 million pounds at an average price of $39.17, for sales of approximately $185.9 million. Using average annual costs, the impact to all active uranium mine operators is less than $4,000. MSHA has concluded that it is not a significant energy action because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, under this analysis, no further Agency action or analysis is required.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

MSHA has reviewed the proposed rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. MSHA has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

IX. References

Salzer, Krista Noyes, survey results compilation ''2012 U.S. Coal Mines Salaries, Wages, and Benefits—2012, U.S. Metal and Industrial Mineral Mine Salaries, Wages, and Benefits'', InfoMine USA, Inc.

U.S. Department of the Interior, U.S. Geological Survey, Mineral Commodity Summaries 2015, February 2015, page 8.

U.S. Department of Labor, Bureau of Labor Statistics, Employment Cost Index CIU2010000405000I, total compensation for private industry workers in construction, extraction, farming, fishing, and forestry occupations, Index.

U.S. Energy Information Administration, Independent Statistics & Analysis: Domestic Uranium Production Report 2014, April 2015.

U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, Regulatory Impact Analysis: Frequently Asked Questions, February 7, 2011.

List of Subjects in 30 CFR Parts 56 and 57

Explosives, Fire prevention, Hazardous substances, Metals, Mine

[4] *http://www.eia.gov/uranium/production/annual/pdf/dupr.pdf,* page 6.

safety and health, Reporting and recordkeeping requirements.

Joseph A. Main,

Assistant Secretary of Labor for Mine Safety and Health.

For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006, MSHA is proposing to amend chapter I of title 30 of the Code of Federal Regulations as follows:

PART 56—SAFETY AND HEALTH STANDARDS—SURFACE METAL AND NONMETAL MINES

■ 1. The authority citation for part 56 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 2. Revise § 56.18002 to read as follows:

§ 56.18002 Examination of working places.

(a) A competent person designated by the operator shall examine each working place at least once each shift, before miners begin work in that place, for conditions that may adversely affect safety or health.

(1) The operator shall promptly notify miners in any affected areas of any adverse conditions found that may adversely affect safety or health and promptly initiate appropriate action to correct such conditions.

(2) Conditions noted by the person conducting the examination that may present an imminent danger shall be brought to the immediate attention of the operator who shall withdraw all persons from the area affected (except persons referred to in section 104(c) of the Federal Mine Safety and Health Act of 1977) until the danger is abated.

(b) A record of each examination shall be made and the person conducting the examination shall sign and date the record before the end of the shift for which the examination was made.

(1) The record shall include the locations of all areas examined and a description of each condition found that may adversely affect the safety or health of miners.

(2) The record also shall include:

(i) A description of the corrective action taken,

(ii) The date that the corrective action was taken, and

(iii) The name of the person who made the record of the corrective action and the date the record of the corrective action was made.

(3) The operator shall maintain the examination records for at least one year; shall make the records available for inspection by authorized representatives of the Secretary and the representatives of miners; and shall provide these representatives a copy on request.

PART 57—SAFETY AND HEALTH STANDARDS—UNDERGROUND METAL AND NONMETAL MINES

■ 3. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 4. Revise § 57.18002 to read as follows:

§ 57.18002 Examination of working places.

(a) A competent person designated by the operator shall examine each working place at least once each shift, before miners begin work in that place, for conditions that may adversely affect safety or health.

(1) The operator shall promptly notify miners in any affected areas of any adverse conditions found that may adversely affect safety or health and promptly initiate appropriate action to correct such conditions.

(2) Conditions noted by the person conducting the examination that may present an imminent danger shall be brought to the immediate attention of the operator who shall withdraw all persons from the area affected (except persons referred to in section 104(c) of the Federal Mine Safety and Health Act of 1977) until the danger is abated.

(b) A record of each examination shall be made and the person conducting the examination shall sign and date the record before the end of the shift for which the examination was made.

(1) The record shall include the locations of all areas examined and a description of each condition found that may adversely affect the safety or health of miners.

(2) The record also shall include:

(i) A description of the corrective action taken,

(ii) The date that the corrective action was taken, and

(iii) The name of the person who made the record of the corrective action and the date the record of the corrective action was made.

(3) The operator shall maintain the examination records for at least one year; shall make the records available for inspection by authorized representatives of the Secretary and the representatives of miners; and shall provide these representatives a copy on request.

[FR Doc. 2016–13218 Filed 6–7–16; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 57, 70, 72, and 75

RIN 1219–AB86

[Docket No. MSHA–2014–0031]

Exposure of Underground Miners to Diesel Exhaust

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for information.

SUMMARY: The Mine Safety and Health Administration (MSHA) is requesting information and data on approaches to control and monitor miners' exposures to diesel exhaust. Epidemiological studies by the National Institute for Occupational Safety and Health (NIOSH) and the National Cancer Institute (NCI) have found that diesel exhaust exposure increases miners' risk of death due to lung cancer. In June 2012, the International Agency for Research on Cancer (IARC) classified diesel exhaust as a human carcinogen. Because of the carcinogenic health risk to miners from exposure to diesel exhaust and to prevent material impairment of miners' health, MSHA is reviewing the Agency's existing standards and policy guidance on controlling miners' exposures to diesel exhaust to evaluate the effectiveness of the protections now in place to preserve miners' health.

DATES: Comments must be received or postmarked by midnight Eastern Standard Time on September 1, 2016.

ADDRESSES: Submit comments and informational materials, identified by RIN 1219–AB86 or Docket No. MSHA–2014–0031, by one of the following methods:

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Electronic Mail: zzMSHA-comments@dol.gov.*
- *Mail:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, Virginia 22202–5452.
- *Hand Delivery or Courier:* 201 12th Street South, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk in Suite 4E401.
- *Fax:* 202–693–9441.

Instructions: All submissions must include ''RIN 1219–AB86'' or ''Docket No. MSHA–2014–0031.'' Do not include personal information that you do not

want publicly disclosed; MSHA will post all comments without change to *http://www.regulations.gov* and *http://arlweb.msha.gov/currentcomments.asp,* including any personal information provided.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* or *http://arlweb.msha.gov/currentcomments.asp.* To read background documents, go to *http://www.regulations.gov.* Review the docket in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal Holidays. Sign in at the receptionist's desk in Suite 4E401.

E-Mail Notification: To subscribe to receive an email notification when MSHA publishes rules in the **Federal Register**, go to *http://www.msha.gov.*

FOR FURTHER INFORMATION CONTACT:

Sheila A. McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *mcconnell.sheila.a@dol.gov* (email), 202–693–9440 (voice); or 202–693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

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I. Background

A. Regulatory History

1. DPM in Underground Coal Mines

On October 25, 1996, MSHA published a final rule establishing revised requirements for the approval of diesel engines and related components used in underground coal mines; requirements for coal mine operators' monitoring of diesel exhaust emissions; and safety standards for the use of diesel-powered equipment in underground coal mines (61 FR 55412). The rule required clean-burning engines on diesel-powered equipment and training for persons maintaining the equipment. The rule also required sufficient ventilating air where diesel-powered equipment is operated.

On January 19, 2001, MSHA published a final rule (66 FR 5526) limiting diesel particulate matter (DPM) exposure in underground coal mines. This standard is based on laboratory analysis of engine exhaust. It requires that the exhaust of certain pieces of equipment be restricted to the following prescribed levels:

- Permissible equipment must not emit more than 2.5 grams per hour (g/hr) of DPM;
- Non-permissible heavy-duty equipment, as defined by 30 CFR 75.1908(a) and operated in underground areas of underground coal mines, must not emit more than 2.5 g/hr of DPM (30 CFR 72.501(c));
- Non-permissible light-duty equipment, as defined by 30 CFR 75.1908(b), must not emit more than 5.0 g/hr of DPM (30 CFR 72.502(a)).

These standards also require mine operators to use engineering controls to reduce DPM exposures of underground coal miners. Mine operators must provide annual training to all miners exposed to DPM and maintain an inventory of the mine's diesel-powered equipment.

Under 30 CFR 72.502(b), non-permissible, light-duty, diesel-powered equipment must be deemed in compliance with 30 CFR 72.502(a) if it uses an engine that meets or exceeds the applicable Environmental Protection Agency (EPA) particulate matter emissions requirements. In promulgating its DPM rule, which allows more particulate emissions for light-duty equipment than for heavy-duty equipment, MSHA assumed that diesel engine manufacturers would comply with EPA standards and that, when replacing vehicles in the mine's light-duty fleet, mine operators would purchase newer (new or used) vehicles that met EPA emissions standards, thus accelerating the turnover to a newer generation of technology. MSHA expected a significant reduction in the amount of DPM emitted by the underground fleet as these cleaner engines replaced or supplemented older engines in underground coal mines.

MSHA had considered establishing stricter standards for certain types of equipment and covering more light-duty equipment, but concluded that such actions would either be technologically or economically infeasible for the coal mining industry as a whole at that time. MSHA concluded that the introduction of newer and cleaner engines underground that met EPA standards, and the continued development of after-treatment and other control technologies, would allow additional reductions in DPM levels to become feasible for the industry as a whole.

For this reason, MSHA's January 2001 DPM standards incorporated EPA's then-applicable standards for light-duty diesel engine emissions. In 2004, EPA phased in even lower emissions standards for light-duty diesel engines.

All MSHA diesel equipment is classified as ''nonroad'' under EPA rules. EPA nonroad diesel engine regulations were structured as a 4-tiered progression. Each tier involved a phased-in lowering of emissions standards over several years based on the size (power) of the engine.

EPA published Tier 1 standards on June 17, 1994 (59 FR 31306, 40 CFR part 89) for nonroad compression-ignition engines (which include diesel engines). Under these standards, for engines at and above 130 kilowatts (kW), emissions of particulate matter could not exceed .54 g/kW and carbon monoxide could not exceed 11.4 g/kW. These standards were phased in by engine size for model years 1996 to 2000. In addition, all engines greater than or equal to 37 kW were subject to an oxides of nitrogen (NO_X, consisting of NO and NO_2) emissions limit of 9.2 g/kW-hr, phased in by engine size over model years 1998 through 2000 (59 FR 31341). However, EPA explicitly excluded engines regulated by MSHA. Id. at 31340.

On October 23, 1998, EPA published Tier 1 DPM standards for nonroad compression-ignition engines less than 37 kW (50 hp), setting a 1.2 g/kW-hr particulate matter limit phased in by engine size over model years 1999 and 2000. The rule also established a Tier 1 NO_X limit of 14.6 g/kW-hr for engines 37 kW and above, phased in by engine size over model years 1996 through 2000.

In addition, the rule required more stringent Tier 2 DPM standards for all nonroad diesel engines, ranging from 1.0 g/kW-hr for the smallest engines to .54 g/kW-hr for the largest engines, phased in by engine size over model years 2001 to 2006. Under the rule, Tier 3 DPM standards for engines 37 kW and above were the same as the Tier 2 standards, but for these engines Tier 3 introduced additional limits for other types of emissions (hydrocarbons plus NO_X). The rule also introduced Tier 3 standards for engines 37–560 kW for these same other types of emissions, phased in by engine size over model years 2006 through 2008 (40 CFR 89.112). MSHA-regulated engines continued to be exempted from the EPA rule.

On June 29, 2004, the EPA published a final rule introducing even lower Tier 4 emissions standards for new compression-ignition engines of all sizes. (69 FR 38958, 40 CFR 1039). This rule provided for ''interim'' Tier 4 standards applicable to engines for model years 2014 and earlier and final Tier 4 standards applicable to model years after the 2014 model year. Based on engine size, the final standards set particulate matter limits of .04 to .40 g/kW-hr, NO_X limits of .40 to 3.5 g/kW-hr, and carbon monoxide limits of 3.5 to 6.6 g/kW-hr. The final standards also imposed lower hydrocarbon limits. 40 CFR 1039.101. Again, MSHA-regulated engines were explicitly excluded from these standards. 40 CFR 1039.5(c). Tier 4 engines were expected to have 90 percent lower DPM emissions than the same types of engines under Tier 3 standards (69 FR 38958, 40 CFR 1039).

2. DPM in Underground Metal and Nonmetal Mines

In 2001, MSHA published a final rule establishing new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines (30 CFR part 57). This rule established a concentration limit for DPM and required mine operators to use engineering and work practice controls to reduce DPM to that limit. Operators were required to comply in accordance with a phase-in period, with the final limit to be in effect by January 20, 2006. In the rule, MSHA provided operators with the opportunity to obtain a special extension if engineering and work practice controls that would reduce a miner's personal exposure to the final exposure limit could not be implemented by the deadline due to technological constraints. This extension opportunity did not apply to newer mines.

MSHA published another final rule (70 FR 32868; June 6, 2005) that replaced the concentration limit for DPM exposures of MNM miners from a total carbon (TC) permissible exposure limit (PEL) to a comparable elemental carbon (EC) PEL. This was not intended to be a substantive change to the exposure limits; rather, MSHA believed that EC renders a more accurate measure of DPM exposure than does TC. The first phase of the PEL reduction would have required a PEL of 308 micrograms of EC per cubic meter of air (308_{EC} μg/m^3), effective on May 20, 2006.

After publishing this 2005 rule, however, MSHA found that the engineering applications and related technological implementation issues were more complex and extensive than previously thought. In response, the Agency published a proposed rule (70 FR 53280; September 7, 2005) seeking specific comments and data on an appropriate conversion factor for the final DPM limit from TC to EC and related technological implementation issues.

On May 18, 2006, MSHA published a final rule (71 FR 28924) that reverted back to using TC to measure DPM exposure. This rule phased-in a final DPM PEL of 160 micrograms of TC per cubic meter of air (160_{TC} μg/m^3) over a two-year period. MSHA believed that the industry as a whole was capable of attaining this DPM PEL within the timeframes established using existing DPM control methods and not requiring the development of new technologies.

MSHA stated that the development of high temperature disposable diesel particulate filter (HTDPF) systems would fill a critical gap in available filter technology because they demonstrated high filtration efficiency for EC, and did not increase NO_2 emissions. MSHA also anticipated that production of biodiesel fuel would increase dramatically, making it easier for mine operators to gain access to a reliable supply of this alternative fuel. In addition, MSHA anticipated that EPA-compliant engines along with other engineering and administrative controls would enable the underground MNM mining industry as a whole to resolve lingering implementation challenges relating to the 160_{TC} μg/m^3 DPM final exposure limit.

In the May 18, 2006 final rule, MSHA also: (1) Finalized provisions addressing medical evaluation and transfer of miners who are unable to wear respirators for medical reasons; (2) committed the Agency to proposing a rule in the near future to convert the DPM limit from TC to EC; (3) deleted the provision that restricts newer mines from applying for an extension of time in which to meet the final concentration limit; and (4) addressed technological and economic feasibility issues and the costs and benefits of the rule. 30 CFR part 57. In accordance with the phase-in schedule, the DPM PEL was reduced to 350_{TC} μg/m^3 effective January 20, 2007. The final limit of 160_{TC} μg/m^3 became effective on May 20, 2008.

On May 20, 2008 (73 FR 29058), MSHA published a **Federal Register** document announcing that it had decided not to engage in rulemaking to convert the TC limit to a comparable EC limit. This decision was based on MSHA's assessment that the latest available scientific evidence regarding the variability of the TC to EC ratio, at levels below 230 μg TC, was insufficient to suggest an appropriate conversion factor. Because the Agency could not support an appropriate EC limit, MSHA's existing DPM standard presently remains at 160_{TC} μg/m^3.

The existing standards are based on a miner's personal exposure to DPM and specify that, in an underground MNM mine, such exposure must not exceed an average 8-hour equivalent, full-shift airborne concentration of 160 micrograms of total carbon (TC) per cubic meter of air (160_{TC} μg/m^3) when measured as an 8-hour, time-weighted average concentration (TWA_8). 30 CFR 57.5060(b)(3). These standards require mine operators to use engineering and/or workplace controls to reduce miners' exposures to a level as low as feasible and, where controls do not reduce exposure to the PEL or below, to supplement controls with respiratory protection. 30 CFR 57.5060(d). These standards also provide that a physician or other licensed health care professional conduct a medical evaluation of miners to determine the miner's ability to wear respiratory protection. 30 CFR 57.5060(d)(3).

B. Recent Research

The National Cancer Institute (NCI) (Silverman *et al.*) and the National Institute for Occupational Safety and Health (NIOSH) (Attfield *et al.*) completed the Diesel Exhaust in Miners Study in March 2012. This epidemiological study included 12,315 workers from eight nonmetal mining facilities (three potash, three trona, one limestone, and one salt (halite) facility) located in Ohio, Missouri, New Mexico, and Wyoming. The study was conducted to determine whether breathing diesel exhaust could lead to lung cancer and other health outcomes. Two evaluations of this study are published in the *Journal of the National Cancer Institute,* as follows:

D. Silverman *et al.* (2012). ''The Diesel Exhaust in Miners Study: A Nested Case-Control Study of Lung Cancer and Diesel Exhaust.'' *Journal of the National Cancer Institute,* 104(11):855–68. doi: 10.1093/jnci/djs034

M. Attfield *et al.* (2012). ''The Diesel Exhaust in Miners Study: A Cohort Mortality Study with Emphasis on Lung Cancer.'' *Journal of the National Cancer Institute,* 104(11):869–83. doi: 10.1093/jnci/djs035

Silverman *et al.* concluded that diesel exhaust exposure may cause lung cancer in humans and may represent a potential public health burden. Attfield *et al.* concluded that diesel exhaust increases the risk of death from lung cancer and has important public health implications.

Both the case-control study (Silverman *et al.*) and the mortality

study (Attfield *et al.*) showed a strong relationship between the levels of exposure to diesel exhaust and risk of death from lung cancer. In both studies, the relationship between lung cancer risk and diesel exhaust exposure remained after controlling for smoking and other lung cancer risk factors. The death rates were about three to five times greater for workers with the highest exposures to diesel exhaust than for workers who had the lowest exposures.

On June 12, 2012, the International Agency for Research on Cancer (IARC) [1] concluded that there is sufficient evidence of carcinogenicity in humans from diesel exhaust exposure to upgrade its classification of diesel exhaust from ''probably carcinogenic'' to ''carcinogenic to humans''.[2]

In November 2015, the Health Effects Institute [3] completed its evaluation of recent epidemiological evidence for assessing the risk of lung cancer from exposure to diesel exhaust. The evaluation concluded that the Diesel Exhaust in Miners Study and the Trucking Industry Particle Study were ''well designed and carefully conducted, embodying the attributes of epidemiological studies that are considered important for quantitative risk assessment.'' [4]

C. Health Hazard Alerts

Following the IARC classification of diesel exhaust as a human carcinogen, MSHA issued two Health Hazard Alerts: one on diesel exhaust and DPM in underground coal and MNM mines, and one on nitrogen dioxide (NO_2) emissions in underground coal mines. The first Health Hazard Alert was issued in partnership with the Occupational Safety and Health Administration (OSHA) on January 10, 2013. It provided information about diesel exhaust and DPM in underground coal and MNM mines, occupations with potential exposure, the health hazards of exposure, engineering and workplace controls, respiratory protection, and the standards in place to protect miners from exposure.

MSHA issued a second Health Hazard Alert on August 6, 2013. The alert reinforced the dangers of platinum-based particulate filters as a source of increased concentrations of nitrogen dioxide (NO_2) in underground coal mines. MSHA had addressed these dangers before. On May 16, 2011, MSHA had published a Program Information Bulletin NO. P11–38, Re-Issue of P02–04—Potential Health Hazard Caused by Platinum-Based Catalyzed Diesel Particulate Matter Exhaust Filters, informing mine operators of a potential health hazard caused by then-available platinum-based catalyzed diesel particulate matter (DPM) exhaust filters for diesel-powered equipment. The PIB advised that the use of these filters may result in increased production of nitrogen dioxide (NO_2) gas, as compared to NO_2 emissions produced by engines operating without these filters, causing miners to be exposed to increased concentrations of NO_2.

D. State Actions

West Virginia, Pennsylvania, and Ohio require diesel-powered equipment used in underground coal mines to include an exhaust emissions control and conditioning system that meets the following requirements:

- DPM emissions that do not exceed an average concentration of 0.12 milligrams of DPM per cubic meter of air (mg/m^3) when diluted by 100 percent (West Virginia and Ohio) or by 50 percent (Pennsylvania) of the MSHA Part 7 approved ventilation rate for that diesel engine.
- An oxidation catalyst or other gaseous emissions control device capable of reducing undiluted carbon monoxide (CO) emissions to 100 parts per million (ppm) or less under all conditions of operation within the normal engine operating temperature range.
- A DPM filter capable of reducing DPM concentrations by at least 75 percent (West Virginia) or by an average of 95 percent (Pennsylvania) or to a level that does not exceed an average concentration of 0.12 milligrams per cubic meter (mg/m^3) of air when diluted by 100 percent of the MSHA Part 7 approved ventilation rate for that diesel engine (Ohio).

In addition, West Virginia, Ohio, and Pennsylvania limit ambient concentrations of exhaust gases to a ceiling of 35 parts per million (ppm) for carbon monoxide (CO) and 3 ppm for nitrogen dioxide (NO_2). West Virginia and Pennsylvania also limit ambient concentrations of nitric oxide (NO) to 25 ppm. If the concentrations of these emissions exceed 75 percent of these limits, these states require mine operators to make changes to the use of diesel equipment, mine ventilation, or other modifications to the mining process.

All three states require mine operators to keep written records of emissions tests, pre-operational examinations, and maintenance and repairs for all diesel equipment operated underground. These states also require specific information to be recorded that MSHA does not require, *e.g.,* the results of testing the engine at full throttle against the brakes with loaded hydraulics (engine speed tests), operating hour meter hours, total intake restriction, total exhaust back pressure, cooled exhaust gas temperature, coolant temperature, engine oil pressure, and engine oil temperature.

II. Information Request

MSHA requests information and data on the effectiveness of the existing standards in controlling miners' exposures to diesel exhaust, including DPM. MSHA specifically requests input from industry, labor, and other interested parties on approaches that may enhance control of DPM and diesel exhaust exposures to improve protections for miners in underground coal and MNM mines. When responding—

- Address your comments to the topic and question number. For example, the response to questions regarding underground coal mines, Question 1, would be identified as ''A.1''.
- Explain the rationale supporting your views and, where possible, include specific examples.
- Provide sufficient detail in your responses to enable proper Agency review and consideration.
- Identify the information on which you rely and include applicable experiences, data, models, calculations, studies and articles, standard professional practices, availability of technology, and costs.

MSHA invites comment in response to the specific questions posed below and encourages commenters to include any related cost and benefit data, and any specific issues related to the impact on small mines.

A. Non-Permissible, Light-Duty, Diesel-Powered Equipment in Underground Coal Mines

It has been 14 years since MSHA promulgated its DPM rule for

[1] International Agency for Research on Cancer, World Health Organization, Press Release No. 213, ''IARC: Diesel Engine Exhaust Carcinogenic,'' June 12, 2012.

[2] International Agency for Research on Cancer, ''Carcinogenicity of Diesel-Engine and Gasoline-Engine Exhausts and Some Nitroarenes,'' *IARC Monographs,* Volume 105, World Health Organization, 2013.

[3] The Health Effects Institute is an independent, non-profit research institute funded jointly by the U.S. Environmental Protection Agency and industry to provide credible, high quality science on air pollution and health for air quality decisions. HEI sponsors do not participate in the selection, oversight, or review of HEI science, and HEI's reports do not necessarily represent their views.

[4] HEI Press Release, ''New Report Examines Latest Studies of Lung Cancer Risk in Workers Exposed to Exhaust from Older Diesel Engines,'' November 24, 2015.

underground coal mines. At that time, MSHA had estimated a service life of 10 years for non-permissible, light-duty, diesel-powered equipment. Based on this estimate, MSHA expects that all the non-permissible, light-duty, diesel-powered equipment in use at that time has now been replaced with equipment having newer and cleaner diesel engines. MSHA's latest diesel inventory for underground coal mines indicates that this newer light-duty equipment makes up about 66 percent of the total existing diesel-powered fleet. MSHA believes that this newer equipment has resulted in a decrease in the overall levels of diesel emissions in underground coal mines. Diesel engine manufacturers have integrated a variety of advanced technologies into new engine designs to reduce engine emissions to meet EPA requirements.

To assist MSHA in determining whether it is feasible to lower the emissions limits for non-permissible, light-duty, diesel-powered equipment to 2.5 g/hr of DPM or less, please respond to the following questions. For each response, please provide data, the specific type of equipment, manufacturer, engine type, filter type, level of DPM, and comments that support your response.

1. Is there evidence that non-permissible, light-duty, diesel-powered equipment currently being operated in underground mines emits 2.5 g/hr of DPM or less? If so, please provide this evidence.

2. What administrative, engineering, and technological challenges would the coal mining industry face in meeting a 2.5 g/hr DPM emissions level for non-permissible, light-duty, diesel-powered equipment?

3. What costs would the coal mining industry incur to lower emissions of DPM to 2.5 g/hr or less on non-permissible, light-duty diesel-powered equipment? What are the advantages, disadvantages of requiring that light-duty diesel-powered equipment emit no more than 2.5 g/hr of DPM?

4. What percentage of non-permissible, light-duty, diesel-powered equipment operating underground does not meet the current EPA emissions standards?

5. What modifications could be applied to non-permissible, light-duty, diesel-powered equipment to meet current EPA emissions standards? What percentage of this equipment could not be modified to meet current EPA emissions standards? If these are specific types of equipment, please list the manufacturers and model numbers.

6. What are the advantages, disadvantages, and costs associated with requiring all non-permissible, light-duty, diesel-powered equipment operating in underground coal mines to meet current EPA emissions standards? Please be specific and include the rationale for your response.

7. West Virginia, Pennsylvania, and Ohio limit diesel equipment in the outby areas of underground coal mines based on the air quantity approved on the highest ventilation plate. What are the advantages, disadvantages, and costs of MSHA adopting such an approach?

B. Maintenance of Diesel-Powered Equipment in Underground Coal Mines and Recordkeeping Requirements

Performing routine preventive maintenance of diesel engines helps ensure that the engines are maintained in approved condition. Under 30 CFR 75.1914(f), all diesel-powered equipment must be examined and tested weekly in accordance with approved checklists and manufacturers' maintenance manuals. Under 30 CFR 75.1914(g), diesel-powered equipment approved under 30 CFR part 36 and non-permissible, heavy-duty, diesel-powered equipment in underground coal mines are tested and evaluated on a weekly basis in accordance with mine operator-developed standard operating procedures. These procedures must provide for carbon monoxide sampling; carbon monoxide concentration must not exceed 2500 parts per million.

8. What would be the advantages, disadvantages, safety and health benefits, and costs of testing non-permissible, light-duty, underground diesel-powered equipment on a weekly basis for carbon monoxide as required for permissible diesel-powered equipment and non-permissible, heavy-duty, diesel-powered equipment?

9. Reducing the emissions of nitric oxide (NO) and nitrogen dioxide (NO_2) is one way that engine manufacturers can control particulate production indirectly. What are the advantages, disadvantages, and costs of expanding exhaust emissions tests to include NO and NO_2 to determine the effectiveness of emissions controls in underground coal mines? Please provide data and comments that support your response.

10. Should MSHA require that diagnostics system tests include engine speed (testing the engine at full throttle against the brakes with loaded hydraulics), operating hour meter, total intake restriction, total exhaust back pressure, cooled exhaust gas temperature, coolant temperature, engine oil pressure, and engine oil temperature, as required by some states? Why or why not?

11. What would be the advantages, disadvantages, and costs associated with requiring additional records to document the testing and maintenance of diesel-powered equipment in underground coal mines, such as the testing described above? Please be specific and include the rationale for your response.

12. If your mine is in West Virginia, Pennsylvania, or Ohio, what is your experience with the resources expended to keep testing records? How have these records been used, *e.g.,* have you analyzed the records for trends? Have you made any changes in the use of the diesel-powered equipment, emissions controls, or mine ventilation based on the records of emissions testing? If so, please provide examples.

13. Please provide information related to additional training requirements for persons who operate and maintain diesel equipment. Please be specific on the types of training required, time associated with training, and additional safety and health benefits provided.

C. Exhaust After-Treatment and Engine Technologies

Options for reducing diesel exhaust emissions that are available include integration of advanced technologies into new engine designs and exhaust after-treatment systems. Reduction of diesel exhaust emissions prior to their release into the mine environment is an effective strategy used to prevent or reduce exposure of underground miners to diesel exhaust. The underground coal and MNM mining industries use exhaust after-treatment technology to control and reduce DPM and gaseous emissions from the existing fleet of diesel-powered equipment. While existing DPM standards provide for flexibility of controls to reach the required limit (*i.e.,* controls that reduce engine emissions), MSHA expected that most operators would use hot gas (ceramic) filters to comply.

MSHA is requesting information on the types and effectiveness of exhaust after-treatment technologies used in underground mines. Please describe some best practices for selecting and using after-treatment devices.

14. What exhaust after-treatment technologies are currently used on diesel-powered equipment? What are the costs associated with acquiring and maintaining these after-treatment technologies and by how much did they reduce DPM emissions? How durable and reliable are after-treatment technologies and how often should these technologies be replaced? Please be specific and include examples and the rationale for your response.

15. What are the advantages, disadvantages, and relative costs of using DPM filters capable of reducing DPM concentrations by at least 75 percent or by an average of 95 percent or to a level that does not exceed an average concentration of 0.12 milligrams per cubic meter (mg/m^3) of air when diluted by 100 percent of the MSHA Part 7 approved ventilation rate for that diesel engine? How often do the filters need to be replaced?

16. What sensors (*e.g.* ammonia, nitrogen oxide (NO), nitrogen dioxide (NO_2)) are built into the after-treatment devices used on the diesel-powered equipment?

17. Are integrated engine and exhaust after-treatment systems used to control DPM and gaseous emissions in the mining industry? If so, please describe the costs associated with acquiring and maintaining integrated systems, and the reduction in DPM emissions produced.

18. What are the advantages, disadvantages, and relative costs of requiring that all light-duty diesel-powered equipment be equipped with high-efficiency DPM filters?

As discussed above, on June 29, 2004, EPA adopted Tier 4 diesel engine standards. These standards are performance-based and technology-neutral in the sense that manufacturers are responsible for determining which emissions control technologies will be needed to meet the requirements. Engine manufacturers will produce new engines with advanced emissions control technologies to comply with Tier 4 emissions standards. Exhaust emissions from these engines are expected to decrease by more than 90 percent.

19. In the mining industry, are operators replacing the engines on existing equipment with Tier 4i (interim) or Tier 4 engines? If so, please specify the type of equipment (make and model) and engine size and tier. Please indicate how much it costs to replace the engine (parts and labor).

20. What types of diesel equipment purchased new for use in the mining industry is powered by Tier 4i or Tier 4 engines? What types of diesel-powered equipment, purchased used for use in the mining industry, are powered by Tier 3, Tier 4i or Tier 4 engines?

21. Are Tier 4i or Tier 4 engines used in underground mines equipped with diesel particulate filter (DPF) systems (*e.g.,* advanced diesel engines with integrated after-treatment systems)? Please provide specific examples.

22. How long have Tier 4i or Tier 4 engines been in use in the mining industry and what additional cost is associated with maintaining equipment equipped with these engines?

23. What percentage of underground coal mines' total diesel equipment inventory is equipped with Tier 4i or Tier 4 engines?

D. Monitoring MNM Miners' Exposures to DPM

Under the existing standards, MSHA uses total carbon (TC) measurements as a surrogate for DPM when determining MNM miners' DPM exposures.

24. MSHA requests information on alternative surrogates, other than TC, to estimate a miner's DPM exposure. What is the surrogate's limit of detection and what are potential interferences in a mine environment?

25. What are the advantages, disadvantages, and relative costs for using the alternative surrogate to determine a MNM miner's exposure to DPM? Please be specific and include the rationale for your response.

26. MSHA requests information on advances in sampling and analytical technology and other methods for measuring a MNM miner's DPM exposure that may allow for a reduced exposure limit.

E. MNM Miners' Personal Exposure Limit (PEL)

MSHA analyzed its sampling data from 2006 (when the final PEL was published) to 2015, and found that the average exposures of MNM miners decreased by 57 percent from 253_{TC} to 109_{TC} μg/m^3 in MNM mines. Further analysis of the data revealed that approximately 63 percent of the mines sampled had average exposures below 100_{TC} μg/m^3 in 2015 and 75 percent of the mines sampled have average exposures below 122_{TC} μg/m^3. Overall, 50 percent of the mines sampled have average exposures between 48_{TC} and 122_{TC} μg/m^3. For operators who have had success in reducing exposures below the existing standard, please describe the best practices that you have used to reduce controls. MSHA intends to share this information with the underground metal and nonmetal mining community.

27. What existing controls were most effective in reducing exposures since 2006? Are these controls available and applicable to all MNM mines?

28. Based on MSHA's data, MNM miners' average exposures are well below the existing standard of 160_{TC} μg/m^3. What are the technological challenges and relative costs of reducing the DPM exposure limit?

F. Other Information

Please provide any other data or information that may be useful to MSHA in evaluating miners' exposures to harmful diesel exhaust emissions, including the effectiveness of existing control mechanisms for reducing harmful diesel emissions and limiting miners' exposures to harmful diesel exhaust emissions.

Authority: 30 U.S.C. 811, 813(h).

Joseph A. Main,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2016–13219 Filed 6–7–16; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0335]

RIN 1625–AA00

Safety Zone; Ohio River Mile 42.5 to 43.0, Chester, West Virginia

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for all water extending 300 feet from the left descending bank into the Ohio River from mile 42.5 to mile 43.0. This proposed rule would be needed to protect personnel, vessels, and the marine environment from potential hazards created by a land based fireworks display. Entry of vessels or persons into this zone would be prohibited unless specifically authorized by the Captain of the Port Pittsburgh (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before June 20, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0335 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh,

U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On April 6, 2016, the Chester Volunteer Fire Department notified the Coast Guard that it will be conducting a fireworks display from 9:30 p.m. to 11:00 p.m. on July 4, 2016. The fireworks will be launched from land in the vicinity of Ohio River mile 42.5 to mile 43.0 along the left descending bank. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 9:30 p.m. to 11:00 p.m. on July 4, 2016. The safety zone would cover the waters extending 300 feet from the left descending bank into the Ohio River from mile 42.5 to mile 43.0. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration, of the safety zone and the low traffic nature of this area. The safety zone would close a small portion of the Ohio River for less than two hours. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow other waterway users to seek permission to enter the zone. Requests to transit the safety zone area would be considered on a case-by-case basis.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV. A. above this proposed rule would not have a significant economic impact on any vessel owner or operator.

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.

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** section. 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.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under 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 is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed 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 (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 proposed rule involves a safety zone lasting less than two hours that would prohibit entry into the safety zone. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0335 to read as follows:

§ 165.T08–0335 Safety Zone; Ohio River Mile 42.5 to Mile 43.0, Chester, WV.

(a) *Location.* The following area is a safety zone: All waters extending 300 feet from the left descending bank into the Ohio River from mile 42.5 to mile 43.0.

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Pittsburgh (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in § 165.23 of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative at 412–221–0807. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 9:30 p.m. to 11:00 p.m. on July 4, 2016.

(e) *Informational Broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the dates and times of enforcement.

Dated: May 12, 2016.

P.C. Burkett,

Commander, U.S. Coast Guard, Acting Captain of the Port Pittsburgh.

[FR Doc. 2016–13586 Filed 6–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter I

[Docket ID ED–2016–OS–0002]

RIN 1875–AA11

Secretary's Proposed Supplemental Priority for Discretionary Grant Programs

AGENCY: Department of Education.

ACTION: Proposed priority.

SUMMARY: The Secretary proposes an additional priority for use in any appropriate grant program for fiscal year (FY) 2016 and future years. The Secretary proposes to add this priority to the existing supplemental priorities and definitions for discretionary grant programs that were published in 2014. This priority reflects our current policy objectives and emerging needs in education.

DATES: We must receive your comments on or before July 8, 2016.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email, or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How to use *regulations.gov*.''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed priority, address them to Ramin Taheri, U.S. Department of Education, 400 Maryland Avenue SW., Room 5E343, Washington, DC 20202–5930.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to

include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

Ramin Taheri, U.S. Department of Education, 400 Maryland Avenue SW., Room 5E343, Washington, DC 20202. Telephone: (202) 453–5961 or by email: *ramin.taheri@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priority, we urge you to identify clearly the specific issues that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of our programs.

During and after the comment period, you may inspect all public comments about this notice by accessing *Regulations.gov.* You may also inspect the comments in person in Room 4W335, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Program Authority: 20 U.S.C. 1221e–3.

Proposed Priority: This notice contains one proposed priority.

Background: Children living in concentrated poverty face significant barriers to learning that contribute to poor outcomes for such students in our public schools.[1] In 2012, nearly one-quarter of our Nation's public school students attended schools where more than 75 percent of students were eligible for free or reduced price lunch; in cities, 40 percent of all public school students attend high-poverty schools.[2] Furthermore, most high-poverty schools are located in high-poverty school districts. Students attending high-poverty schools continue to have unequal access to advanced coursework, the best teachers, and necessary funding and supports.[3] Moreover, research shows that States with less socioeconomically diverse schools tend to have larger achievement gaps between low- and higher-income students.[4] Some communities have begun to address these disparities by employing strategies to bring together students from varying socioeconomic backgrounds; for example, more than 90 school districts and charter-school operators currently use socioeconomic status as a consideration in student assignment.[5]

In addition to the negative effects of concentrated poverty on education, many schools and communities continue to suffer the effects of racial segregation, and some of our Nation's largest school districts remain starkly segregated along both racial and economic lines. Accordingly, the Department believes that it is imperative for schools, school districts, States, and postsecondary institutions to take lawful steps to increase student-body diversity based on race and ethnicity. Using the Secretary's existing priority on Promoting Diversity, published in the **Federal Register** on December 10, 2014 (79 FR 73425), we intend to continue our efforts to reduce racial isolation in public schools and to increase racial and ethnic diversity in education. In addition, however, given the growing body of research showing that socioeconomically diverse schools and communities are associated with improved outcomes for disadvantaged children and families,[6] the Department plans to use this proposed priority to continue to focus on increasing diversity, including socioeconomic diversity, in educational settings.[7]

Proposed Priority—Increasing Socioeconomic Diversity in Schools.

Projects that are designed to increase socioeconomic diversity in educational settings by addressing one or more of the following:

(a) Using established survey or data-collection methods to identify socioeconomic stratification and related barriers to socioeconomic diversity at the classroom, school, district, community, or regional level.

(b) Developing, evaluating, or providing technical assistance on evidence-based policies or strategies designed to increase socioeconomic diversity in schools.

(c) Designing or implementing, with community input, education funding strategies, such as the use of weighted per-pupil allocations of local, State, and eligible Federal funds, to provide incentives for schools and districts to increase socioeconomic diversity.

(d) Developing or implementing policies or strategies to increase

[1] See, *e.g.,* Coleman, James S., Ernest Q. Campbell, Carol J. Hobson, James McPartland, Alexander M. Mood, Frederic D. Weinfeld, and Robert York. ''Equality of educational opportunity.'' *Washington, DC* (1966): 1066–5684; Rumberger, Russell, and Gregory Palardy. ''Does segregation still matter? The impact of student composition on academic achievement in high school.'' *The Teachers College Record* 107, no. 9 (2005): 1999–2045; Mulligan, G.M., S. Hastedt, and J.C. McCarroll (2012). *First-Time Kindergartners in 2010–11: First Findings From the Kindergarten Rounds of the Early Childhood Longitudinal Study, Kindergarten Class of 2010–11 (ECLS–K: 2011)* (NCES 2012–049). U.S. Department of Education. Washington, DC: National Center for Education Statistics.

[2] National Center for Education Statistics. (2014). Digest of Education Statistics, Table 216.6. Available at: *http://nces.ed.gov/programs/digest/d14/tables/dt14_216.60.asp.*

[3] See, *e.g.,* Gray, Lucinda, et al. *Educational Technology in U.S. Public Schools: Fall 2008* (Apr. 2010) (NCES 2010–034). U.S. Department of Education, National Center for Education Statistics, available at: *http://nces.ed.gov/pubs2010/2010034.pdf;* Wells, John, and Laurie Lewis. *Internet Access in U.S. Public Schools and Classrooms: 1994–2005* (November 2006). U.S. Department of Education, National Center for Education Statistics, available at: *http://nces.ed.gov/pubs2007/2007020.pdf.*

[4] Mantil, Ann, Anne G. Perkins, and Stephanie Aberger. ''The Challenge of High-Poverty Schools: How Feasible Is Socioeconomic School Integration?'' The Future of School Integration (2012): 155–222.

[5] Potter, Halley, and Kimberly Quick, with Elizabeth Davies. *A New Wave of School Integration: Districts and Charters Pursuing Socioeconomic Diversity.* The Century Foundation, 2016.

[6] Schwartz, Heather. ''Housing Policy is School Policy: Economically Integrative Housing Promotes Academic Success in Montgomery County, Maryland.'' In *The Future of School Integration: Socioeconomic Diversity as an Education Reform Strategy,* edited by Richard D. Kahlenberg, 27–65. The Century Foundation, 2012; *see also* Chetty, Raj, Nathaniel Hendren, and Lawrence F. Katz. *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment.* No. w21156. National Bureau of Economic Research, 2015.

[7] Increasing socioeconomic diversity, both independently and in pursuit of racial diversity, is consistent with guidance, issued in 2011 and reaffirmed in 2013 and 2014 by the Department, in conjunction with the U.S. Department of Justice, regarding the use of race and ethnicity to promote diversity and reduce racial isolation. *See* Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools, available at: *http://www.ed.gov/ocr/letters/colleague-201111.pdf;* Guidance on *Fisher* v. *University of Texas at Austin,* available at: *http://www.ed.gov/ocr/letters/colleague-201309.pdf;* and Guidance on *Schuette* v. *Coalition to Defend Affirmative Action, et al.,* available at: *http://www.ed.gov/ocr/letters/colleague-201405-schuette-guidance.pdf.*

socioeconomic diversity in schools that—

(i) Are evidence-based;

(ii) May be carried out on an intra-district, inter-district, community, or regional basis;

(iii) Demonstrate ongoing, robust family and community involvement, including a process for intensive public engagement and consultation;

(iv) Reflect coordination with other relevant government entities, including housing or transportation authorities, to the extent practicable;

(v) May be based on an existing, public diversity plan or diversity needs assessment; and

(vi) May include, for example—

(A) Establishing school assignment or admissions policies that are designed to give preference to low-income students, students from low-performing schools, or students residing in neighborhoods experiencing concentrated poverty to attend higher-performing schools;

(B) Establishing or expanding schools that are designed to attract substantial numbers of students of different socioeconomic backgrounds, such as magnet or theme schools, charter schools, or other schools of choice.

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

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

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

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

Final Priority: We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

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

Executive Orders 12866 and 13563

Regulatory Impact Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussion of Costs and Benefits: The proposed priority would not impose significant costs on entities that would receive assistance through the Department's discretionary grant programs. Additionally, the benefits of implementing the proposal contained in this notice outweigh any associated costs because it would result in the Department's discretionary grant programs selecting high-quality applications to implement activities that reflect the Administration's policy focus.

Application submission and participation in a discretionary grant program are voluntary. The Secretary believes that the costs imposed on

applicants by the proposed priority would be limited to paperwork burden related to preparing an application for a discretionary grant program that is using the priority in its competition. Because the costs of carrying out activities would be paid for with program funds, the costs of implementation would not be a burden for any eligible applicants, including small entities.

Regulatory Flexibility Act Certification: For these reasons as well, the Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

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

This document provides early notification of our specific plans and actions for these programs.

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

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

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

John B. King, Jr.,

Secretary of Education.

[FR Doc. 2016–13456 Filed 6–7–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2015–0159; FXRS12610700000167–FF07J00000; FBMS# 4500088147]

RIN 1018–BB22

Subsistence Management Regulations for Public Lands in Alaska—Applicability and Scope; Tongass National Forest Submerged Lands

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. District Court for Alaska in its October 17, 2011, order in *Peratrovich et al.* v. *United States and the State of Alaska,* 3:92-cv–0734–HRH (D. Alaska), enjoined the United States ''to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) with respect to submerged public lands within Tongass National Forest'' and directed entry of judgment. To comply with the order, the Federal Subsistence Board (Board) must initiate a regulatory proceeding to identify those submerged lands within the Tongass National Forest that did not pass to the State of Alaska at statehood and, therefore, remain Federal public lands subject to the subsistence provisions of ANILCA.

Following the Court's decision, the Bureau of Land Management (BLM) and the USDA–Forest Service (USDA–FS) started a review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. In April and October of 2015, BLM submitted initial lists of submerged public lands to the Board. This proposed rule would add those submerged parcels to the subsistence regulations to ensure compliance with the Court order. Additional listings will be published as BLM and the USDA–FS continue their review of pre-statehood withdrawals.

DATES: *Public comments:* Comments on this proposed rule must be received or postmarked by August 8, 2016.

Public meetings: The Federal Subsistence Regional Advisory Councils (Councils) will hold public meetings to receive comments on this proposed rule on several dates between September 28 and November 2, 2016, and make recommendations to the Federal Subsistence Board. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in January 2017. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

ADDRESSES: *Public meetings:* The Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils' public meetings will be held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2015–0159, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503–6199.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of ANILCA (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register**

on May 29, 1992 (57 FR 22940). The program regulations have subsequently been amended a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program (Program). The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

Public Review Process—Comments and Public Meetings

The Federal Subsistence Regional Advisory Councils have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Councils, will hold public meetings on this proposed rule at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council, Petersburg, October 4, 2016
Region 2—Southcentral Regional Council, Anchorage, October 18, 2016
Region 3—Kodiak/Aleutians Regional Council, Cold Bay, September 28, 2016
Region 4—Bristol Bay Regional Council, Dillingham, October 26, 2016
Region 5—Yukon–Kuskokwim Delta Regional Council, Bethel, October 12, 2016
Region 6—Western Interior Regional Council, McGrath, October 11, 2016
Region 7—Seward Peninsula Regional Council, Nome, November 1, 2016
Region 8—Northwest Arctic Regional Council, Selawik, October 5, 2016
Region 9—Eastern Interior Regional Council, Fort Yukon, October 25, 2016
Region 10—North Slope Regional Council, Barrow, November 1, 2016

A public notice of specific dates, times, and meeting locations will be published in local and statewide newspapers prior to each meeting. Locations and dates may change based on weather or local circumstances. The Regional Advisory Council's agenda determines the length of each Council meeting based on workload.

The Board will discuss and evaluate submitted comments and public testimony on this proposed rule during a public meeting scheduled for January 2017 in Anchorage, Alaska. The Federal Subsistence Regional Advisory Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional public testimony may be provided to the Board on this proposed rule at that time. At that public meeting, the Board will deliberate and make final recommendations to the Secretaries on this proposed rule.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

Reasonable Accommodations

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Deborah Coble, 907–786–3880, *subsistence@fws.gov,* or 800–877–8339 (TTY), seven business days prior to the meeting you would like to attend.

Tribal Consultation and Comment

As expressed in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 75 FR 60810 (October 1, 2010). Consultation with Alaska Native corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Alaska National Interest Lands Conservation Act does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because tribal members are affected by subsistence fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Advisory Council meetings; engaging in dialogue

at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes' and Alaska Native corporations' information, input, and recommendations, and address their concerns as much as practicable.

Jurisdictional Background and Perspective

The *Peratrovich* case dates back to 1992 and has a long and involved procedural history. The plaintiffs in that litigation raised the question of which marine waters in the Tongass National Forest, if any, are subject to the jurisdiction of the Federal Subsistence Management Program. In its May 31, 2011, order, the U.S. District Court for Alaska (Court) stated that ''it is the duty of the Secretaries [Agriculture & Interior] to identify any submerged lands (and the marine waters overlying them) within the Tongass National Forest to which the United States holds title.'' It also stated that, if such title exists, it ''creates an interest in [the overlying] waters sufficient to make those marine waters public lands for purposes of [the subsistence provisions] of ANILCA.''

Most of the marine waters within the Tongass National Forest were not initially identified in the regulations as public lands subject to the subsistence priority based upon a determination that the submerged lands were State lands, and later through reliance upon a disclaimer of interest filed by the United States in *Alaska* v. *United States,* No. 128 Orig., 546 U.S. 413 (2006). In that case, the State of Alaska had sought to quiet title to all lands underlying marine waters in southeast Alaska, which includes most of the Tongass National Forest. Ultimately, the United States disclaimed ownership to most of the submerged lands in the Tongass National Forest. The Supreme Court accepted the disclaimer by the United States to title to the marine waters within the Tongass National Forest, excepting from that disclaimer several classes of submerged public lands that generally involve small tracts. *Alaska* v. *United States,* 546 U.S. at 415.

When the United States took over the subsistence program in Alaska in 1990, the Departments of the Interior and Agriculture stated in response to comments on the scope of the program during promulgation of the interim regulations that ''the United States generally does not hold title to navigable waters and thus navigable waters generally are not included within the definition of public lands'' (55 FR 27115; June 29, 1990). That position was changed in 1999 when the subsistence priority was extended to waters subject to a Federal reserved water right following the *Katie John* litigation. The Board identified certain submerged marine lands that did not pass to the State and, therefore, where the subsistence priority applied. However, the Board did not attempt to identify each and every small parcel of submerged public lands and thereby marine water possibly subject to the Federal Subsistence Management Program because of the potentially overwhelming administrative burden. Instead the Board invited the public to petition to have submerged marine lands included. Over the years, several small areas of submerged marine lands in the Tongass National Forest have been identified as public lands subject to the subsistence priority.

In its May 31, 2011, order, the Court stated that the petition process was not sufficient and found that ''concerns about costs and management problems simply cannot trump the congressional policy that the subsistence lifestyle of rural Alaskans be preserved as to public lands.'' The Court acknowledged in its order that inventorying all these lands could be an expensive undertaking, but that it is a burden ''necessitated by the 'complicated regulatory scheme' which has resulted from the inability of the State of Alaska to implement Title VIII of ANILCA.'' The Court then ''enjoined'' the United States ''to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of ANILCA with respect to submerged public lands within Tongass National Forest'' and directed entry of judgment.

The BLM and USDA–FS started a time- and resource-consuming review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. Both agencies are reviewing their records to identify dock sites, log transfer sites, and other areas that may not have passed to the State at statehood. The review process is ongoing and expected to take quite some time.

Developing the Applicability and Scope; Tongass National Forest Submerged Lands Proposed Regulations

In April and October of 2015, BLM submitted initial listings of parcels of submerged public lands to the Board. This proposed rule will add those listings to the subsistence regulations to ensure compliance with the Court's order. Additional listings will be published as BLM and USDA–FS continue their reviews of pre-statehood withdrawals. In addition, this proposed rule would make nonsubstantive changes to 36 CFR 242.3 and 50 CFR 100.3 to correct errors, such as misspellings and punctuation errors, which occur in the existing regulations.

Because this proposed rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA § 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final § 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management

Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of the subsistence program regulations was conducted in accordance with § 810. This evaluation also supported the Secretaries' determination that the regulations will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA § 810(a).

Paperwork Reduction Act of 1995 (PRA)

This proposed rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*) OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR 242 and 50 CFR 100, and assigned OMB Control Number 1018–0075. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this proposed rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these proposed regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these proposed regulations meet the applicable standards provided in §§ 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, will provide a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these proposed regulations under the guidance of Gene Peltola of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;

• Trevor Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
• Thomas Whitford, Alaska Regional Office, USDA—Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, the Secretaries propose to amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart A—General Provisions

■ 2. In subpart A of 36 CFR part 242 and 50 CFR part 100, amend § 3 as follows:
■ a. In paragraph (a), remove the word ''or'' and in its place add the word ''of'' and remove the word ''poortion'' and in its place add the word ''portion'';
■ b. In paragraph (b)(1)(iii), remove the word ''A'' and in its place add the word ''All'';
■ c. In paragraph (b)(1)(v), remove the word ''Latitute'' and in its place add the word ''Latitude'';
■ d. In paragraph (b)(2), remove ''70 10′'' and in its place add ''70°10′'' and remove ''145 51′'' and in its place add ''145°51′'';
■ e. In paragraph (b)(3), remove the word ''cape'' and in its place add the word ''Cape'', remove the word ''Latitute'' and in its place add the word ''Latitude'', and remove ''161 46′'' and in its place add ''161°46′''; and
■ f. Revise paragraph (b)(5) to read as set forth below:

§ 3 Applicability and scope.

* * * * *

(5) Southeastern Alaska, including the:

(i) Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°02′35″ north latitude, 135°21′07″ west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2,500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5,600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4,200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3,000 feet, to a point, 57°03′15″ north latitude, 134°23′07″ west longitude; East, 2,900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1,496 to angle point No. 35, on the southwestern point of Japonski Island; S. 60° E., 3,300 feet, along the boundary line of Naval reservation described in Executive Order No. 8216, July 25, 1939, to the point of beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by metes and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S. 45° E. along the main channel approximately 20.00 chains; thence S. 45° W. approximately 9.00 chains to the southeastern point of Aleutski Island; thence S. 79° W. approximately 40.00 chains to the southern point of Fruit Island; thence N. 60° W. approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of U.S. Survey No. 1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, and Fruit islands and a number of smaller unnamed islands.

(ii) Tongass National Forest:

(A) Beacon Point, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16. The reference location is marked as 57 south, 79 east, CRM, SEC 8, U.S. Survey No. 1604. The point begins on the low-water line at N. 63° W., true and approximately 1,520 feet from Beacon Point beacon; thence due south true 1,520 feet; thence true East 1,800 feet, more or less to an intersection with a low-water line; thence following, is the low-water line round the point to point of the beginning (Approx. Long. 133°00′ W. Lat. 56°56¼′ N.).

(B) Bushy Island and Snow Passage are shown on the U.S. Coast and Geodetic Survey Chart, labeled No. 8160—Sheet No. 12. The reference location is marked as 64 south, 80 east, CRM, SEC. 31/32 on the map labeled, USS 1607. The point begins on a low-water line about ¼ nautical miles and southwesterly from the northwest point of the island, from which a left tangent to an island that is 300 yards in diameter and 100 yards offshore, bears the location—N. 60° W., true; thence S. 60° E., true and more or less 2,000 feet to an intersection with a low-water line on the easterly side of the island; thence forward along the winding of the low-water line northwesterly and southwesterly to the point of the beginning, including all adjacent rocks and reefs not covered at low water (Approx. Long. 132°58′ W. Lat. 56°16½′ N.).

(C) Cape Strait, Frederick Sound, and Kupreanof Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16. The reference location is marked as 56 south, 77478 east, CRM, on the map labeled as USS 1011. It begins at a point on a low-water line that is westerly from the lighthouse and distant 1,520 feet in a direct line from the center of the concrete pier upon which the light tower is erected; thence South 45° E., true by 1,520 feet; thence east true by 1,520 feet, more or less to an intersection with the low-water line; thence north-westerly and westerly, following the windings of the low-water line to the point of beginning (Approx. Long. 133°05′ W. Lat. 57°00′ N.).

(D) Point Colpoys and Sumner Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Prince of Wales Island—Sheet No. 12. The reference location is marked as 64 south, 78 east, CRM, SECs. 10, 11, 12 on the map labeled as USS 1634. Location is north of a true east-and-west line running across the point to 1,520 feet true south from the high-water line at the northernmost extremity. Map includes all adjacent rocks and ledges not covered at low water and also includes two rocks awash about 1¼ nautical miles east and South and 75° East, respectively, from the aforementioned point (Approx. Long. 133°12′ W. Lat. 56°20′ N.).

(E) Vank Island and Stikine Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. Located at 62 south, 82 east, CRM, SEC 34, on the map labeled as USS 1648. This part of the island is lying south of a true east-and-west line that is drawn across the island from low water to low water. Island is 760 feet due North from

the center of the concrete pier upon which the structure for the light is erected (Approx. Long. 132°35′ W. Lat. 56°27′ N.).

(F) High Point, and Woronkofski Island, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. The location begins at a point on low water at the head of the first bight easterly of the point and about ⅛ nautical mile distant therefrom; thence south true 1,520 feet; thence west true 1,100 feet, more or less to an intersection with the low-water line; thence northerly and easterly, following the windings of the low-water line to point of the beginning (Approx. Long. 132°33′ W. Lat. 56°24′ N.).

(G) Key Reef and Clarence Strait are shown on the U.S Coast and Geodetic Survey Chart No. 8160—Sheet No. 11. The reef lies 1¾ miles S. 80° E., true, from Bluff Island and becomes awash at extreme high water. Chart includes all adjacent ledges and rocks not covered at low water (Approx. Long. 132°50′ W. Lat. 56°10′ N.).

(H) Low Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 22. The location begins at a point on a low-water line that is 760 feet in a direct line, easterly, from the center of Low Point Beacon. The position is located on a point of shoreline about 1 mile easterly from Low Point; thence S. 35°, W true 760 feet; thence N. 800 feet and W. 760 feet, more or less, to an intersection with the low-water line to the point of beginning (Approx. Long. 132°55½′ W. Lat. 56°27½′ N.).

(I) McNamara Point and Zarembo Island, Alaska, are shown on U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 25. Location begins at a point on a low-water line that is 1,520 feet in a direct line, northerly, from McNamara Point Beacon—a slatted tripod structure; thence true east 1,520 feet; thence true south, more or less, 2,500 feet to an intersection with the low-water line; thence northwesterly and northerly following the windings of the low-water line to the point of the beginning (Approx. Long. 133°04′ W. Lat. 56°20′ N.).

(J) Mountain Point and Wrangell Narrows, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 27. The location begins at a point on a low-water line southerly from the center of Mountain Point Beacon and distant there from 1,520 feet in a direct line; thence true west 1,520 feet; thence true north, more or less, 3,480 feet to an intersection with the low-water line; thence southeasterly and southerly following the windings of the low-water line to the point of the beginning (Approx. Long. 132°57½′ W. Lat. 56°44′ N.).

(K) Angle Point, Revillagigedo Channel, and Bold Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, USS 1603. The location begins at a point on a low-water line abreast of the lighthouse on Angle Point, the southwestern extremity of Bold Island; thence easterly along the low-water line to a point that is 3,040 feet in a straight line from the beginning point; thence N. 30° W. True 3,040 feet; thence true west to an intersection with the low-water line, 3,000 feet, more or less; thence southeasterly along the low-water line to the point of the beginning (Approx. Long. 131°26′ W. Lat. 55°14′ N.).

(L) Cape Chacon, Dixon Entrance, and Prince of Wales Island are shown on the U.S Coast and Geodetic Survey Chart No. 8074—Sheet No. 29. The reference location is marked as 83 south, 89 and 90 east, CRM, USS 1608. The location begins at a point at the low-water mark on the shore line of Dixon Entrance from which the southern extremity of Cape Chacon bears south 64° true East and approximately ¾ nautical miles; thence N. 45° true East and about 1 nautical mile, more or less, to an intersection with a low-water line on the shore of Clarence Strait; thence southerly, following the meanderings of the low-water line of the shore, to and around Cape Chacon, and continuing to the point of the beginning. Reference includes all adjacent islands, islets, rocks, and reefs that are not covered at the low-water line (Approx. Long. 132° W. Lat. 54°42′ N.).

(M) Lewis Reef and Tongass Narrows are shown on the U.S Coast and Geodetic Survey Chart No. 8094—Sheet No. 71. The reference location is marked as 75 south, 90 east, CRM, SEC 9. The area point begins at the reef off of Lewis Point and partly bare at low water. This part of the reef is not covered at low water and lies on the northeast side of a true northwest-and-southeast line that is located 300 feet true southwest from the center of the concrete pier of Lewis Reef Light (Approx. Long. 131°44½′ W. Lat. 55°22′25″ N.).

(N) Lyman Point and Clarence Strait are shown on the U.S Coast and Geodetic Survey, Chart No. 8076—Sheet No. 8. The reference location is marked as 73 south, 86 east, CRM, SEC 13, on a map labeled as USS 2174 TRC. It begins at a point at the low-water mark. The aforementioned point is 300 feet in a direct line easterly from Lyman Point light; thence due south 300 feet; thence due west to a low-water mark 400 feet, more or less; thence following the winding of the low-water mark to place of beginning (Approx. Long. 132°18′ W. Lat. 35°35′ N.).

(O) Narrow Point, Clarence Strait, and Prince of Wales Island are shown on the U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9. The reference location is marked as 70 south, 84 east, CRM, on a map labeled as USS 1628. The point begins at a point on a low-water line about 1 nautical mile southerly from Narrow Point Light, from which point a left tangent to a high-water line of an islet about 500 yards in diameter and about 300 yards off shore, bears south 30° true East; thence north 30° W., true 7,600 feet; thence N. 60° E., 3,200 feet, more or less to an intersection with a low-water line; thence southeasterly, southerly, and southwesterly, following the winding of the low-water line to the point of the beginning. The map includes all adjacent rocks not covered at low water (Approx. Long. 132°28′ W. Lat. 55°47½′ N.).

(P) Niblack Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. coast and Geodetic Survey Chart No. 8102—Sheet No. 6, which is the same sheet used for Caamano Point. The location begins at a point on a low-water line from which Niblack Point Beacon, a tripod anchored to three concrete piers, bears southeasterly and is 1,520 feet in a direct line; thence true northeast 1,520 feet; thence true southeast 3,040 feet; thence true southwest at 600 feet, more or less, to an intersection with a low-water line; thence northwesterly following the windings of the low-water line to the point of the beginning (Approx. Long. 132°07′ W. Lat. 55°33′ N.).

(Q) Rosa Reef and Tongass Narrows are shown on the U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 71. The reference location is marked as 74 south, 90 east, CRM, SEC 31. That part of the reef is not covered at low water and lies east of a true north-and-south line, located 600 feet true west from the center of the concrete pier of Rosa Reef Light. The reef is covered at high water (Approx. Long. 131°48′ W. Lat. 55°24′15″ N.).

(R) Ship Island and Clarence Strait are shown on the U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9. The reference location is marked as south, 8 east, CRM, SEC 27. The point begins as a small island on the northwesterly side of the Clarence Strait, about 10 nautical miles northwesterly from Caamano Point and ¼ mile off the shore of Cleveland Peninsula. The sheet includes all

adjacent islets and rocks not connected to the main shore and not covered at low water (Approx. Long. 132°12′ W. Lat. 55°36′ N.).

(S) Spire Island Reef and Revillagigedo Channel are shown on the U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3. The reference location is marked as 76 south, 92 east, CRM, SEC 19.The detached reef, covered at high water and partly bare at low water, is located northeast of Spire Island. Spire Island Light is located on the reef and consists of small houses and lanterns surmounting a concrete pier. See chart for ''Angle Pt.'' (Approx. Long. 131°30′ W. Lat. 55°16′ N.).

(T) Surprise Point and Nakat Inlet are shown on the U.S. Coast and Geodetic Survey Chart No. 8051—Sheet No. 1. The reference location is marked as 80 south, 89 east, CRM. This point lies north of a true east-and-west line. The true east-and-west line lies 3,040 feet true south from the northernmost extremity of the point together with adjacent rocks and islets (Approx. Long. 130°44′ W. Lat. 54°49′ N.).

(U) Caamano Point, Cleveland Peninsula, and Clarence Strait, Alaska, are shown on the U.S. Coast and Geodetic Survey Chart No. 8102—Sheet No. 6. Location consists of everything apart of the extreme south end of the Cleveland Peninsula lying on a south side of a true east-and-west line that is drawn across the point at a distance of 800 feet true north from the southernmost point of the low-water line. This includes off-lying rocks and islets that are not covered at low water (Approx. Long. 131°59′ W. Lat. 55°30′ N.).

(V) Meyers Chuck and Clarence Strait, Alaska, are shown on the U.S. and Geodetic Survey Chart No. 8124—Sheet No. 26. The small island is about 150 yards in diameter and located about 200 yards northwest of Meyers Island (Approx. Long. 132°16′ W. Lat. 55°44½′ N.).

(W) Round Island and Cordova Bay, Alaska, are shown on the U.S coast and Geodetic Survey Chart No. 8145—Sheet No. 36. The Southwestern Island of the group is about 700 yards long, including off-lying rocks and reefs that are not covered at low water (Approx. Long. 132°30½′ W. Lat. 54°46½′ N.).

(X) Mary Island begins at a point that is placed at a low-water mark. The aforementioned point is southward 500 feet from a crosscut on the side of a large rock on the second point below Point Winslow and Mary Island; thence due west ¾ mile, statute; thence due north to a low-water mark; thence following the winding of the low water to the place of the beginning (Approx. Long. 131°11′00″ W. Lat. 55°05′55″ N.).

(Y) Tree Point starts a point of a low-water mark. The aforementioned point is southerly ½ mile from extreme westerly point of a low-water mark on Tree Point, on the Alaska Mainland; thence due true east, ¾ mile; thence due north 1 mile; thence due west to a low-water mark; thence following the winding of the low-water mark to the place of the beginning (Approx. Long. 130°57′44″ W. Lat. 54°48′27″ N.).

* * * * *

Dated: May 31, 2016.

Dated: February 17, 2016.

Sally Jewell,

Secretary of the Interior.

Beth G. Pendleton,

Regional Forester USDA—Forest Service.

[FR Doc. 2016–13374 Filed 6–7–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0247; FRL–9947–40–Region 4]

Air Plan Approval; South Carolina; Prong 4—2008 Ozone, 2010 NO_2, SO_2, and 2012 $PM_{2.5}$

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve the portions of revisions to the South Carolina State Implementation Plan (SIP), submitted by the South Carolina Department of Health and Environmental Control (SC DHEC), addressing the Clean Air Act (CAA or Act) visibility transport (prong 4) infrastructure SIP requirements for the 2008 8-hour Ozone, 2010 1-hour Nitrogen Dioxide (NO_2), 2010 1-hour Sulfur Dioxide (SO_2), and 2012 annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, commonly referred to as an ''infrastructure SIP.'' Specifically, EPA is proposing to conditionally approve the prong 4 portions of South Carolina's July 17, 2008, 8-hour Ozone infrastructure SIP submission; April 30, 2014, 2010 1-hour NO_2 infrastructure SIP submission; May 8, 2014, 2010 1-hour SO_2 infrastructure SIP submission; and December 18, 2015, 2012 annual $PM_{2.5}$ infrastructure SIP submission. All other applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

DATES: Comments must be received on or before July 8, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No EPA–R04–OAR–2016–0247 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached by telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) of the CAA are to be submitted by states within three years after promulgation of a new or revised NAAQS to provide for the implementation, maintenance, and enforcement of the new or revised NAAQS. EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as the requirements for monitoring, basic program requirements, and legal

authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. More specifically, section 110(a)(1) provides the procedural and timing requirements for infrastructure SIPs. Section 110(a)(2) lists specific elements that states must meet for the infrastructure SIP requirements related to a newly established or revised NAAQS. The contents of an infrastructure SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's implementation plan at the time in which the state develops and submits the submission for a new or revised NAAQS.

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4). Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

Through this action, EPA is proposing to conditionally approve the prong 4 portions of South Carolina's infrastructure SIP submissions for the 2008 8-hour Ozone, 2010 1-hour NO_2, 2010 1-hour SO_2, and 2012 annual $PM_{2.5}$ NAAQS as discussed in section IV of this document.[1] All other applicable infrastructure SIP requirements for these SIP submissions have been or will be addressed in separate rulemakings. A brief background regarding the NAAQS relevant to this proposal is provided below. For comprehensive information on these NAAQS, please refer to the **Federal Register** notices cited in the following subsections.

a. 2008 8-Hour Ozone NAAQS

On March 12, 2008, EPA revised the 8-hour Ozone NAAQS to 0.075 parts per million. *See* 73 FR 16436 (March 27, 2008). States were required to submit infrastructure SIP submissions for the 2008 8-hour Ozone NAAQS to EPA no later than March 12, 2011. South Carolina submitted its infrastructure SIP submission on July 17, 2012, for the 2008 8-hour Ozone NAAQS.

b. 2010 1-Hour NO_2 NAAQS

On January 22, 2010, EPA established a new 1-hour primary NAAQS for NO_2 at a level of 100 parts per billion, based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. *See* 75 FR 6474 (February 9, 2010). States were required to submit infrastructure SIP submissions for the 2010 1-hour NO_2 NAAQS to EPA no later than January 22, 2013. South Carolina submitted its infrastructure SIP submission on April 30, 2014, for the 2010 1-hour NO_2 NAAQS.

c. 2010 1-Hour SO_2 NAAQS

On June 2, 2010, EPA revised the primary SO_2 NAAQS to an hourly standard of 75 parts per billion based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. *See* 75 FR 35520 (June 22, 2010). States were required to submit infrastructure SIP submissions for the 2010 1-hour SO_2 NAAQS to EPA no later than June 2, 2013. South Carolina submitted its infrastructure SIP submission on May 8, 2014, for the 2010 1-hour SO_2 NAAQS.

d. 2012 Annual $PM_{2.5}$ NAAQS

On December 14, 2012, EPA revised the primary annual $PM_{2.5}$ NAAQS to 12 micrograms per cubic meter ($\mu g/m^3$). *See* 78 FR 3086 (January 15, 2013). States were required to submit infrastructure SIP submissions for the 2012 $PM_{2.5}$ NAAQS to EPA no later than December 14, 2015. South Carolina submitted its infrastructure SIP submission on December 18, 2015, for the 2012 $PM_{2.5}$ NAAQS.

II. What is EPA's approach to the review of infrastructure SIP submissions?

The requirement for states to make a SIP submission of this type arises out of section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''each such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of section 110(a)(1) and (2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of Title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of section 169A of the CAA, and nonattainment new source review permit program submissions to address the permit requirements of CAA, Title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[2] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section

[1] Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval automatically becomes a disapproval on that date and EPA will issue a finding of disapproval.

[2] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; Section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of Title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of Title I of the CAA, which specifically address nonattainment SIP requirements.[3] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years or in some cases three years, for such designations to be promulgated.[4] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within section 110(a)(1) and (2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[5] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[6]

Ambiguities within section 110(a)(1) and (2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants, because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[7]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires attainment plan SIP submissions required by part D to meet the ''applicable requirements'' of section 110(a)(2); thus, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of Title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[8] EPA most recently

[3] *See, e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[4] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[5] *See, e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' 78 FR 4337 (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[6] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[7] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[8] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[9] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[10] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). EPA interprets section 110(a)(1) and (2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's implementation plan appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of Section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in section 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and NSR pollutants, including Greenhouse Gases. By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's implementation plan meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor new source review program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction (SSM) that may be contrary to the CAA and EPA's policies addressing such excess emissions;[11] (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (NSR Reform). Thus, EPA believes that it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[12] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in section 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may

[9] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[10] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d 7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

[11] Subsequent to issuing the 2013 Guidance, EPA's interpretation of the CAA with respect to the approvability of affirmative defense provisions in SIPs has changed. See ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,'' 80 FR 33839 (June 12, 2015). As a result, EPA's 2013 Guidance (p. 21 & n.30) no longer represents the EPA's view concerning the validity of affirmative defense provisions, in light of the requirements of section 113 and section 304.

[12] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption or affirmative defense for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of section 110(a)(1) and (2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[13] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[14]

Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[15]

III. What are the Prong 4 requirements?

Section 110(a)(2)(D)(i)(II) includes a requirement that a state's implementation plan contain provisions prohibiting sources in that state from emitting pollutants in amounts that interfere with any other state's efforts to protect visibility under part C of Title I of the CAA (which includes sections 169A and 169B). The 2013 Guidance states that these prong 4 requirements can be satisfied by approved SIP provisions that EPA has found to adequately address any contribution of that state's sources to impacts on visibility program requirements in other states. The 2013 Guidance also states that EPA interprets this prong to be pollutant-specific, such that the infrastructure SIP submission need only address the potential for interference with protection of visibility caused by the pollutant (including precursors) to which the new or revised NAAQS applies.

The 2013 Guidance delineates two ways in which a state's infrastructure SIP may satisfy prong 4. The first way is through an air agency's confirmation in its infrastructure SIP submission that it has an EPA-approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309. 40 CFR 51.308 and 51.309 specifically require that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. A fully approved regional haze SIP will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility.

Alternatively, in the absence of a fully approved regional haze SIP, a state may meet the requirements of prong 4 through a demonstration in its infrastructure SIP submission that emissions within its jurisdiction do not interfere with other air agencies' plans to protect visibility. Such an infrastructure SIP submission would need to include measures to limit visibility-impairing pollutants and ensure that the reductions conform with any mutually agreed regional haze reasonable progress goals for mandatory Class I areas in other states.

IV. What is EPA's analysis of how South Carolina addressed Prong 4?

South Carolina's July 17, 2012, 2008 8-hour Ozone submission; April 30, 2014, 2010 1-hour NO_2 submission; May 8, 2014, 2010 1-hour SO_2 submission; and December 18, 2015, 2012 annual $PM_{2.5}$ submission cite to the State's regional haze SIP as satisfying prong 4 requirements.[16] However, as explained below, EPA has not yet fully approved South Carolina's regional haze SIP because the SIP relies on the Clean Air Interstate Rule (CAIR) to satisfy the nitrogen oxides (NO_X) and SO_2 Best Available Retrofit Technology (BART) requirements for the CAIR-subject electric generating units (EGUs) in the State and the requirement for a long-term strategy sufficient to achieve the state-adopted reasonable progress goals.[17]

EPA demonstrated that CAIR achieved greater reasonable progress toward the national visibility goal than BART for NO_X and SO_2 at BART-eligible EGUs in CAIR affected states, and revised the regional haze rule to provide that states participating in CAIR's cap-and-trade programs need not require affected BART-eligible EGUs to install, operate, and maintain BART for emissions of SO_2 and NO_X. *See* 70 FR 39104 (July 6, 2005). As a result, a number of states in the CAIR region designed their regional haze SIPs to rely

[13] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. *See* ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[14] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. *See* ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under section 110(k)(6) of the CAA to remove numerous other SIP provisions that the Agency determined it had approved in error. *See, e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062, November 16, 2004 (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[15] *See, e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See, e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

[16] The April 30, 2014, 2010 1-hour NO_2 submission; May 8, 2014, 2010 1-hour SO_2 submission; and December 18, 2015 also cite to the State's December 2012 regional haze progress report.

[17] CAIR, promulgated in 2005, required 27 states and the District of Columbia to reduce emissions of NO_X and SO_2 that significantly contribute to, or interfere with maintenance of, the 1997 NAAQS for fine particulates and/or ozone in any downwind state. CAIR imposed specified emissions reduction requirements on each affected State, and established several EPA-administered cap and trade programs for EGUs that States could join as a means to meet these requirements.

on CAIR as an alternative to NO_X and SO_2 BART for CAIR-subject EGUs. These states also relied on CAIR as an element of a long-term strategy for achieving their reasonable progress goals.

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008,[18] but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR.[19] On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS.

Due to CAIR's status as a temporary measure following the D.C. Circuit's 2008 ruling, EPA could not fully approve regional haze SIP revisions to the extent that they relied on CAIR to satisfy the BART requirement and the requirement for a long-term strategy sufficient to achieve the state-adopted reasonable progress goals. On these grounds, EPA finalized a limited disapproval of South Carolina's regional haze SIP on June 7, 2012 (77 FR 33642), triggering the requirement for EPA to promulgate a Federal Implementation Plan (FIP) unless South Carolina submitted and EPA approved a SIP revision that corrected the deficiencies. EPA finalized a limited approval of South Carolina's regional haze SIP on June 28, 2012 (77 FR 38509), as meeting the remaining applicable regional haze requirements set forth in the CAA and the regional haze rule.

Numerous parties filed petitions for review of CSAPR in the D.C. Circuit, and on August 21, 2012, the court issued its ruling, vacating and remanding CSAPR to EPA and ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit's vacatur of CSAPR was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015). The remanded budgets include the Phase 2 SO_2 emissions budget for South Carolina.[20]

Although South Carolina's infrastructure SIP revisions cite to the regional haze program as satisfying the requirements of Prong 4, the State may not currently rely on its regional haze SIP to satisfy these requirements because the regional haze SIP is not fully approved. In addition, these revisions do not otherwise demonstrate that emissions within the State's jurisdiction do not interfere with other states' plans to protect visibility. Therefore, on April 19, 2016, South Carolina submitted a commitment letter to EPA requesting conditional approval of the prong 4 portions of the aforementioned infrastructure SIP revisions.[21] In this letter, South Carolina commits to satisfy the prong 4 requirements for the 2008 8-hour ozone NAAQS, 2010 1-hour NO_2 NAAQS, 2010 1-hour SO_2 NAAQS, and 2012 $PM_{2.5}$ NAAQS by providing a SIP revision that adopts provisions for participation in the CSAPR annual NO_X and annual SO_2 trading programs, including annual NO_X and annual SO_2 budgets that are at least as stringent as the budgets codified for South Carolina at 40 CFR 97.710(a) (SO_2 Group 2 trading budgets) and 40 CFR 97.410(a) (NO_X Annual trading budgets). South Carolina will rely on this SIP revision adopting such budgets to submit a concurrent SIP revision specifically addressing the visibility requirements of prong 4. In its commitment letter, South Carolina commits to providing these two concurrent SIP revisions within one year of EPA's final conditional approval of the prong 4 portions of the infrastructure SIP revisions and provides an anticipated schedule for these revisions. If the revised infrastructure SIP revision relies on a fully approvable regional haze SIP, South Carolina also commits to providing the necessary regional haze SIP revision to EPA within one year of EPA's final conditional approval.

If South Carolina meets its commitment within one year of final conditional approval, the prong 4 portions of the conditionally approved infrastructure SIP submissions will remain a part of the SIP until EPA takes final action approving or disapproving the new SIP revision(s). However, if the State fails to submit these revisions within the one-year timeframe, the conditional approval will automatically become a disapproval one year from EPA's final conditional approval and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval triggers the FIP requirement under CAA section 110(c).

V. Proposed Action

As described above, EPA is proposing to conditionally approve the prong 4 portions of South Carolina's July 17, 2008 8-hour Ozone infrastructure SIP submission; April 30, 2014, 2010 1-hour NO_2 infrastructure SIP submission; May 8, 2014, 2010 1-hour SO_2 infrastructure SIP submission; and December 18, 2015, 2012 annual $PM_{2.5}$ infrastructure SIP submission. All other applicable infrastructure requirements for these SIP submissions have been or will be addressed in separate rulemakings.

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive

[18] *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008).

[19] *North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008).

[20] The D.C. Circuit also invalidated the Phase 2 ozone season NO_X budget for South Carolina. EPA has proposed to address the court's remand of the Phase 2 ozone season NO_X budgets in a notice of proposed rulemaking published on December 3, 2015 (80 FR 75706).

[21] South Carolina's April 19, 2016, commitment letter is available in the docket for today's proposed action.

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 CAA; and

• does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, South Carolina statute 27–16–120, ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' However, EPA has determined that because this proposed rule does not have substantial direct effects on an Indian Tribe because, as noted above, this action is not approving any specific rule, but rather proposing that South Carolina's already approved SIP meets certain CAA requirements. EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 26, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–13606 Filed 6–7–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2014–0424; FRL–9947–41–Region 4]

Air Plan Approval/Disapproval; MS; Infrastructure Requirements for the 2012 $PM_{2.5}$ National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, in part, and disapprove in part, portions of the State Implementation Plan (SIP) submission, submitted by the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), on December 11, 2015, to demonstrate that the State meets the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2012 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an ''infrastructure'' SIP. MDEQ certified that the Mississippi SIP contains provisions to ensure the 2012 Annual $PM_{2.5}$ NAAQS is implemented, enforced, and maintained in Mississippi. With the exception of the state board majority requirements respecting significant portion of income, for which EPA is proposing to disapprove, EPA is proposing to determine that portions of Mississippi's infrastructure submission, submitted to EPA on December 11, 2015, satisfy certain required infrastructure elements for the 2012 Annual $PM_{2.5}$ NAAQS.

DATES: Written comments must be received on or before July 8, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2014–0424 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bell can be reached via telephone at (404) 562–9088 or via electronic mail at *bell.tiereny@epa.gov.*

I. Background and Overview

On December 14, 2012 (78 FR 3086, January 15, 2013), EPA promulgated a revised primary annual $PM_{2.5}$ NAAQS. The standard was strengthened from 15.0 micrograms per cubic meter (μg/m³) to 12.0 μg/m³. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2012 Annual $PM_{2.5}$ NAAQS to EPA no later than December 14, 2015.[1]

This action is proposing to approve Mississippi's infrastructure SIP submission for the applicable requirements of the 2012 Annual $PM_{2.5}$ NAAQS, with the exception of the visibility requirement of section 110(a)(2)(D)(i)(II) (prong 4), interstate

[1] In these infrastructure SIP submissions States generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Throughout this rulemaking, unless otherwise indicated, the term ''APC'' indicates Mississippi Air Pollution Control (APC) regulations relevant to air quality control. The cited regulation has either been approved, or submitted for approval into Mississippi's federally-approved SIP.

transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(I) (prongs 1 and 2) and the state board majority requirements respecting significant portion of income of section 110(a)(2)(E)(ii). With respect to the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(I) (prongs 1 and 2) and visibility requirement of section 110(a)(2)(D)(i)(II) (prong 4), EPA will address these in a separate rulemaking action. With respect to Mississippi's infrastructure SIP submission related to the majority requirements respecting significant portion of income of 110(a)(2)(E)(ii), EPA is proposing to disapprove this portion of Mississippi's infrastructure SIP submission because Mississippi does not preclude at least a majority of the members of its boards from receiving a significant portion of their income from persons subject to permits or enforcement orders issued by such boards. For the aspects of Mississippi's submittal proposed for approval, EPA notes that the Agency is not approving any specific rule, but rather proposing that Mississippi's already approved SIP meets certain CAA requirements.

II. What elements are required under sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for the ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are summarized below and in EPA's September 13, 2013, memorandum entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' [2]

- 110(a)(2)(A): Emission Limits and Other Control Measures
- 110(a)(2)(B): Ambient Air Quality Monitoring/Data System
- 110(a)(2)(C): Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources [3]
- 110(a)(2)(D)(i)(I) and (II): Interstate Pollution Transport
- 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Air Pollution
- 110(a)(2)(E): Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies
- 110(a)(2)(F): Stationary Source Monitoring and Reporting
- 110(a)(2)(G): Emergency Powers
- 110(a)(2)(H): SIP Revisions
- 110(a)(2)(I): Plan Revisions for Nonattainment Areas [4]
- 110(a)(2)(J): Consultation with Government Officials, Public Notification, and Prevention of Significant Deterioration (PSD) and Visibility Protection
- 110(a)(2)(K): Air Quality Modeling and Submission of Modeling Data
- 110(a)(2)(L): Permitting fees
- 110(a)(2)(M): Consultation and Participation by Affected Local Entities

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the SIP submission from Mississippi that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2012 Annual $PM_{2.5}$ NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review (NNSR) permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[5] EPA

[2] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D title I of the CAA; and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, title I of the CAA. This proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[3] This rulemaking only addresses requirements for this element as they relate to attainment areas.

[4] As mentioned above, this element is not relevant to this proposed rulemaking.

[5] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title

Continued

therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[6] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[7] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[8] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[9]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[10]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have

I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[6] *See, e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[7] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[8] *See, e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[9] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[10] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

already been developed and applied to individual SIP submissions for particular elements.[11] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[12] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[13] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's implementation plan appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and new source review (NSR) pollutants, including greenhouse gases (GHGs). By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's implementation plan meets basic structural requirements. For example, section 110(a)(2)(C) includes, among other things, the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[14] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have

[11] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[12] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[13] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations. On March 17, 2016, EPA released a memorandum titled, ''Information on the Interstate Transport 'Good Neighbor' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)'' to provide guidance to states for interstate transport requirements specific to the $PM_{2.5}$ NAAQS.

[14] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's implementation plan is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[15] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[16] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[17]

IV. What is EPA's analysis of how Mississippi addressed the elements of the sections 110(a)(1) and (2) ''infrastructure'' provisions?

Mississippi's December 11, 2015, infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A): *Emission Limits and Other Control Measures:* Section 110(a)(2)(A) requires that each implementation plan include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements. Mississippi's infrastructure SIP submission provides an overview of the provisions of the Mississippi Air Pollution Control (APC) regulations relevant to air quality control. *Mississippi Code Title 49,* Section 49–17–17(h) (Appendix A–9),[18] authorizes MDEQ to adopt, modify, or repeal ambient air quality standards and emissions standards for the control of air pollution, including those necessary to obtain EPA approval under section 110 of the CAA. Sections APC–S–1, *Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants,* and APC–S–3, *Regulations for the Prevention of Air Pollution Emergency Episodes,* establish enforceable emissions limitations and other control measures, means or techniques, for activities that contribute to $PM_{2.5}$ concentrations in the ambient air and provide authority for MDEQ to establish such limits and measures as well as schedules for compliance through SIP-approved permits to meet the applicable requirements of the CAA. EPA has made the preliminary determination that the provisions contained in these regulations, and Mississippi's statute are adequate for enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance for the 2012 Annual $PM_{2.5}$ NAAQS in the State.

In this action, EPA is not proposing to approve or disapprove any existing state provisions with regard to excess emissions during SSM operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, ''State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown'' (September 20, 1999), and the Agency is addressing such state regulations in a separate action.[19]

Additionally, in this action, EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B): *Ambient Air Quality Monitoring/Data System:* Section 110(a)(2)(B) requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to: (i) Monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the

[15] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[16] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[17] *See, e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

[18] *Mississippi Code Title 49* is referenced in the State's infrastructure SIP submissions as ''Appendix A–9.'' As discussed above, unless otherwise indicated herein, portions of the Mississippi Code referenced in this proposal are not incorporated into the SIP.

[19] On June 12, 2015, EPA published a final action entitled, ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction.'' *See* 80 FR 33840.

Administrator. Section APC–S–1, *Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants,* and *Mississippi Code Title 49,* Section 49–17–17(g), provides MDEQ with the authority to collect and disseminate information relating to air quality and pollution and the prevention, control, supervision, and abatement thereof. Annually, MDEQ develops and submits to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[20] On June 9, 2015, Mississippi submitted its monitoring network plan to EPA, which was approved by EPA on October 6, 2015. Mississippi's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0424. EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for the ambient air quality monitoring and data system requirements related to the 2012 Annual $PM_{2.5}$ NAAQS.

3. 110(a)(2)(C): *Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources:* This element consists of three sub-elements: Enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources, and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program). To meet the requirements for this element, Mississippi cited APC–S–5, *Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality* and APC–S–2, *Permit Regulation for the Construction and/or Operation of Air Emissions Equipment,* Section V. These regulations enable MDEQ to regulate sources contributing to the 2012 Annual $PM_{2.5}$ NAAQS through enforceable permits.

Enforcement: MDEQ's APC–S–2, *Permit Regulation for the Construction and/or Operation of Air Emissions Equipment,* Section VI provides for the enforcement of $PM_{2.5}$ emission limits and control measures through construction permitting for new or modified stationary sources. Also note that under *Mississippi Code Title 49, Chapter 17,* MDEQ has enforcement authority to seek penalties and injunctive relief for violations of emission limits and other control measures and violations of permits.

PSD Permitting for Major Sources: EPA interprets the PSD sub-element to require that a state's infrastructure SIP submission for a particular NAAQS demonstrate that the state has a complete PSD permitting program in place covering the structural PSD requirements for all regulated NSR pollutants. A state's PSD permitting program is complete for this sub-element (and prong 3 of D(i) and J related to PSD) if EPA has already approved or is simultaneously approving the state's SIP with respect to all structural PSD requirements that are due under the EPA regulations or the CAA on or before the date of the EPA's proposed action on the infrastructure SIP submission.

For the 2012 Annual $PM_{2.5}$ NAAQS, Mississippi's authority to regulate new and modified sources to assist in the protection of air quality in nonattainment, attainment or unclassifiable areas in Mississippi is established in Regulations APC–S–5, *Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality,* and APC–S–2, *Permit Regulation for the Construction and/or Operation of Air Emissions Equipment.* These SIP-approved regulations pertain to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as nonattainment, attainment or unclassifiable. Mississippi's infrastructure SIP submission demonstrates that new major sources and major modifications in areas of the State designated attainment or unclassifiable for the specified NAAQS are subject to a federally-approved PSD permitting program meeting all the current structural requirements of part C of title I of the CAA to satisfy the infrastructure SIP PSD elements.[21] As such, EPA has made the preliminary determination that Mississippi's SIP and practices are adequate and comply with the PSD elements of the 2012 Annual $PM_{2.5}$ NAAQS.

Regulation of minor sources and modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern the minor source pre-construction program that regulates emissions of the 2012 Annual $PM_{2.5}$ NAAQS. Mississippi has a SIP-approved minor NSR permitting program at APC–S–2, Section I. D—*Permitting Requirements,* that regulates the preconstruction permitting of minor modifications and construction of minor stationary sources.

EPA has made the preliminary determination that Mississippi's SIP is adequate for enforcement of control measures, PSD permitting for major sources and regulation of minor sources and modifications related to the 2012 Annual $PM_{2.5}$ NAAQS.

4. 110(a)(2)(D)(i)(I) and (II): *Interstate Pollution Transport:* Section 110(a)(2)(D)(i) has two components: 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components has two subparts resulting in four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2''). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (''prong 3''), or to protect visibility in another state (''prong 4'').

110(a)(2)(D)(i)(I)—prongs 1 and 2: EPA is not proposing any action related to the provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (''prong 1''), and interfering with maintenance of the NAAQS in another state (''prong 2'') of section 110(a)(2)(D)(i)(I) (prongs 1 and 2). EPA will consider these requirements in relation to Mississippi's 2012 Annual $PM_{2.5}$ NAAQS infrastructure submission in a separate rulemaking.

110(a)(2)(D)(i)(II)—prong 3: With regard to section 110(a)(2)(D)(i)(II), the PSD element, referred to as prong 3, this requirement may be met by a state's confirmation in an infrastructure SIP submission that new major sources and

[20] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

[21] For more information on the structural PSD program requirements that are relevant to EPA's review infrastructure SIP in connection with the current PSD-related infrastructure requirements, see the Technical Support Document in the docket for today's rulemaking.

major modifications in the state are subject to: a PSD program meeting all the current structural requirements of part C of title I of the CAA, or (if the state contains a nonattainment area for the relevant pollutant) a NNSR program that implements the NAAQS for a relevant pollutant. As discussed in more detail above under section 110(a)(2)(C), Mississippi's SIP contains provisions for the State's PSD program that reflects the required structural PSD requirements to satisfy the requirement of prong 3. EPA has made the preliminary determination that Mississippi's SIP is adequate for interstate transport for PSD permitting of major sources and major modifications related to the 2012 Annual $PM_{2.5}$ NAAQS for section 110(a)(2)(D)(i)(II) (prong 3).

110(a)(2)(D)(i)(II)—prong 4: EPA is not proposing any action in this rulemaking related to the interstate transport provisions pertaining to visibility protection in other states of section 110(a)(2)(D)(i)(II) (prong 4) and will consider these requirements in relation to Mississippi's 2012 Annual $PM_{2.5}$ NAAQS infrastructure submission in a separate rulemaking.

5. 110(a)(2)(D)(ii): *Interstate Pollution Abatement and International Air Pollution:* Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement. Section APC–S–5, *Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality,* provides how MDEQ will notify neighboring state and local agencies of potential impacts from new or modified sources consistent with the requirements of 40 CFR 51.166, which is adopted by reference into the Mississippi SIP. Additionally, Mississippi does not have any pending obligation under section 115 and 126 of the CAA. EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for ensuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2012 Annual $PM_{2.5}$ NAAQS.

6. 110(a)(2)(E): *Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies:* Section 110(a)(2)(E) requires that each implementation plan provide: (i) Necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the state comply with the requirements respecting state boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve Mississippi's SIP as meeting the requirements of sections 110(a)(2)(E)(i) and (iii). EPA is proposing to approve, in part, and disapprove, in part, Mississippi's SIP respecting section 110(a)(2)(E)(ii). EPA's rationale for its proposal respecting each section of 110(a)(2)(E) is described in turn below.

To satisfy the requirements of sections 110(a)(2)(E)(i) and (iii), Mississippi provides that MDEQ is responsible for promulgating rules and regulations for the NAAQS, emissions standards, general policies, a system of permits, fee schedules for the review of plans, and other planning needs as found in *Mississippi Code Title 49,* Section 49–17–17(d) and Section 49–17–17(h) (Appendix A–9). As evidence of the adequacy of MDEQ's resources with respect to sub-elements (i) and (iii), EPA submitted a letter to Mississippi on April 19, 2016, outlining 105 grant commitments and the current status of these commitments for fiscal year 2015. The letter EPA submitted to Mississippi can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0424. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. There were no outstanding issues in relation to the SIP for fiscal year 2015, therefore, MDEQ's grants were finalized and closed out. In addition, the requirements of 110(a)(2)(E)(i) and (iii) are met when EPA performs a completeness determination for each SIP submittal. This determination ensures that each submittal provides evidence that adequate personnel, funding, and legal authority under State law has been used to carry out the State's implementation plan and related issues. Mississippi's authority to implement provisions of the State's implementation plan is included in all prehearings and final SIP submittal packages for approval by EPA. EPA has made the preliminary determination that Mississippi has adequate resources for implementation of the 2012 Annual $PM_{2.5}$ NAAQS.

To meet the requirements of section 110(a)(2)(E)(ii), states must comply with the requirements respecting state boards pursuant to section 128 of the Act. Section 128 of the CAA requires that states include provisions in their SIP to address conflicts of interest for state boards or bodies that oversee CAA permits and enforcement orders and disclosure of conflict of interest requirements. Specifically, CAA section 128(a)(1) necessitates that each SIP shall require that at least a majority of any board or body which approves permits or enforcement orders shall be subject to the described public interest service and income restrictions therein. Subsection 128(a)(2) requires that the members of any board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to conflict of interest disclosure requirements.

To meet its section 110(a)(2)(E)(ii) obligations for the 2012 Annual $PM_{2.5}$ NAAQS, Mississippi's infrastructure SIP submission cites Article 4, Section 109 of the Mississippi Constitution and portions of Mississippi Code sections 25–4–25, –27, –29, –103, –105, and –109. These provisions were incorporated into the Mississippi SIP to meet CAA section 128 requirements in EPA's final action for the 1997 and 2006 $PM_{2.5}$ NAAQS infrastructure SIPs. *See* 78 FR 20793.[22] In this same final action for the 1997 and 2006 $PM_{2.5}$ NAAQS infrastructure SIPs (78 FR 20793), EPA disapproved Mississippi's October 11, 2012, submission as not satisfying the significant portion of income requirement of section 128(a)(1).

Based upon the review of the above cited laws and provisions, EPA is proposing to approve the section 110(a)(2)(E)(ii) portions of the infrastructure SIP submission as it relates to the public interest requirements of section 128(a)(1) and the conflict of interest disclosure provisions of section 128(a)(2) for the 2012 Annual $PM_{2.5}$ NAAQS. EPA is proposing to disapprove the section 110(a)(2)(E)(ii) portion of the infrastructure SIP submission as it pertains to compliance with the significant portion of income requirement of section 128(a)(1) for the 2012 Annual $PM_{2.5}$ NAAQS.[23]

With respect to the significant portion of income requirement of section 128(a)(1), the provisions included in the infrastructure SIP submission do not preclude at least a majority of the members of the Mississippi Boards[24]

[22] This final action pertained to Mississippi's October 11, 2012, infrastructure SIP submission and only addressed compliance with 110(a)(2)(E)(ii) respecting CAA section 128 requirements.

[23] EPA took similar action with respect to Mississippi's section 110(a)(2)(E)(ii) submission for the 1997 and 2006 $PM_{2.5}$, 2008 Lead, and 2008 8-hour Ozone NAAQS.

[24] The Mississippi Commission on Environmental Quality issues and supervises enforcement orders, and the Mississippi Department of Environmental

from receiving a significant portion of their income from persons subject to permits or enforcement orders issued by such Boards. While the submitted laws and provisions preclude members of the Mississippi Boards from certain types of income (*e.g.,* contracts with State or political subdivisions thereof, or income obtained through the use of his or her public office or obtained to influence a decision of the Mississippi Boards), they do not preclude a majority of members of the Mississippi Boards from deriving any significant portion of their income from persons subject to permits or enforcement orders so long as that income is not derived from one of the proscribed methods described in the laws and provisions submitted by the State. To date, because a majority of board members may still derive a significant portion of income from persons subject to permits or enforcement orders issued by the Mississippi Boards, the Mississippi SIP does not meet the section 128(a)(1) majority requirements respecting significant portion of income, and as such, EPA is proposing to disapprove the State's 110(a)(2)(E)(ii) submission as it relates only to this portion of section 128(a)(1).

Accordingly, EPA is proposing to approve the section 110(a)(2)(E)(ii) submission as it relates to the public interest requirements of section 128(a)(1) and the conflict of interest disclosure provisions of section 128(a)(2) and proposing to disapprove Mississippi's section 110(a)(2)(E)(ii) submission as it pertains to compliance with the significant portion of income requirement of section 128(a)(1) for the 2012 Annual $PM_{2.5}$ NAAQS.

7. 110(a)(2)(F): *Stationary Source Monitoring and Reporting:* Section 110(a)(2)(F) requires SIPs to meet applicable requirements addressing: (i) The installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this section, which reports shall be available at reasonable times for public inspection. Section APC–S–2, *Permit Regulations for the Construction and/or Operation of Air Emissions Equipment,* establishes requirements for emissions compliance testing utilizing emissions sampling and analysis. It further describes how the State ensures the quality of its data through observing emissions and monitoring operations. MDEQ uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. *Mississippi Code 49,* Section 49–17–21 (Appendix A–9) provides MDEQ with the authority to require the maintenance of records related to the operation of air contaminant sources and any authorized representative of the Commission may examine and copy any such records or memoranda pertaining to the operation of such contaminant source. Section APC–S–2 lists requirements for compliance testing and reporting that is required to be included in any MDEQ air pollution permit and requires that copies of records relating to the operation of air contamination sources be submitted to the Permit Board as required by the permit or upon request. Section APC–S–1, *Air Emission Regulations For The Prevention, Abatement, and Control of Air Contaminants,* authorizes source owners or operators to use any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, for the purpose of submitting compliance certifications. EPA is unaware of any provision preventing the use of credible evidence in the Mississippi SIP.

Additionally, Mississippi is required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data (73 FR 76539). The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and the precursors that form them—NO_X, SO_2, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. Mississippi made its latest update to the 2012 NEI on January 9, 2014. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for the stationary source monitoring systems related to the 2012 Annual $PM_{2.5}$ NAAQS.

8. 110(a)(2)(G): *Emergency powers:* This section of the CAA requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. *Mississippi Code Title 49* (Appendix A–9) and Section APC–S–3, *Mississippi Regulations for the Prevention of Air Pollution Emergency Episodes,* identify air pollution emergency episodes and preplanned abatement strategies. Specifically, Section APC–S–3 authorizes the MDEQ Director, once it has been determined that an Air Pollution Emergency Episode condition exists at one or more monitoring sites solely because of emissions from a limited number of sources, to order source(s) to put into effect the emission control programs which are applicable for each episode stage. Section APC–S–3 also lists regulations to prevent the excessive buildup of air pollutants during air pollution episodes. Also, *Mississippi Code Title 49,* Section 49–17–27 (Appendix A–9), states that in the event an emergency is found to exist by the Mississippi Commission on Environmental Quality, it may issue an emergency order as circumstances may require. Emergency situations include those which create an imminent and substantial endangerment threatening the public health and safety or the lives and property of the people in Mississippi. EPA has made the preliminary determination that Mississippi's SIP is adequate for emergency powers related to the 2012 Annual $PM_{2.5}$ NAAQS. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(G).

9. 110(a)(2)(H): *SIP Revisions:* Section 110(a)(2)(H), in summary, requires each SIP to provide for revisions of such plan (i) as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) whenever the Administrator finds that the plan is

Quality Permit Board has the authority to issue, modify, revoke or deny permits.

substantially inadequate to attain the NAAQS or to otherwise comply with any additional applicable requirements. MDEQ is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in Mississippi. The State has the ability and authority to respond to calls for SIP revisions, and has provided a number of SIP revisions over the years for implementation of the NAAQS. *Mississippi Code Title 49,* Section 49–17–17(h) (Appendix A–9), provides MDEQ with the statutory authority to adopt, modify or repeal and promulgate ambient air and water quality standards and emissions standards for the State. As such, the State has the authority to revise the SIP to accommodate changes to NAAQS and revise the SIP if the EPA Administrator finds the plan to be substantially inadequate to attain the NAAQS. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 2012 Annual $PM_{2.5}$ NAAQS when necessary.

10. 110(a)(2)(J): *Consultation with Government Officials, Public Notification, and PSD and Visibility Protection:* EPA is proposing to approve Mississippi's infrastructure SIP submission for the 2012 Annual $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that provides for meeting the applicable consultation requirements of section 121, the public notification requirements of section 127, PSD, and visibility protection. EPA's rationale for each sub-element is described below.

Consultation with government officials (121 consultation): Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations and Federal Land Managers carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation. Section APC–S–5, *Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality,* and *Mississippi Code Title 49,* Section 49–17–17(c) (Appendix A–9), along with the State's various implementations plans, such as the State's Regional Haze Implementation Plan, provide for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding Federal Land Managers whose jurisdictions might be affected by SIP development activities. Mississippi adopted state-wide consultation procedures for the implementation of transportation conformity. These consultation procedures were developed in coordination with the transportation partners in the State and are consistent with the approaches used for development of mobile inventories for SIPs. Implementation of transportation conformity as outlined in the consultation procedures requires MDEQ to consult with Federal, state and local transportation and air quality agency officials on the development of motor vehicle emissions budgets. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate that the State meets applicable requirements related to consultation with government officials for the 2012 Annual $PM_{2.5}$ NAAQS when necessary. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(J) consultation with government officials.

Public notification (127 public notification): These requirements are met through regulation APC–S–3, *Mississippi Regulations for the Prevention of Air Pollution Emergency Episodes,* which requires that MDEQ notify the public of any air pollution alert, warning, or emergency. The MDEQ Web site also provides air quality summary data, air quality index reports and links to more information regarding public awareness of measures that can prevent such exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2012 Annual $PM_{2.5}$ NAAQS when necessary. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(J) public notification.

PSD: With regard to the PSD element of section 110(a)(2)(J), this requirement may be met by a state's confirmation in an infrastructure SIP submission that new major sources and major modifications in the state are subject to a PSD program meeting all the current structural requirements of part C of title I of the CAA. As discussed in more detail above under the section discussing 110(a)(2)(C), Mississippi's SIP contains provisions for the State's PSD program that reflect the relevant SIP revisions pertaining to the required structural PSD requirements to satisfy the requirement of the PSD element of section 110(a)(2)(J). EPA has made the preliminary determination that Mississippi's SIP and practices are adequate for the PSD element of section 110(a)(2)(J).

Visibility protection: EPA's 2013 Guidance notes that it does not treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. MDEQ referenced its regional haze program as germane to the visibility component of section 110(a)(2)(J). EPA recognizes that states are subject to visibility protection and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). However, there are no newly applicable visibility protection obligations after the promulgation of a new or revised NAAQS. Thus, EPA has determined that states do not need to address the visibility component of 110(a)(2)(J) in infrastructure SIP submittals so MDEQ does not need to rely on its regional haze program to fulfill its obligations under section 110(a)(2)(J). As such, EPA has made the preliminary determination that Mississippi's infrastructure SIP submission related to the 2012 Annual $PM_{2.5}$ NAAQS is approvable for the visibility protection element of section 110(a)(2)(J) and that Mississippi does not need to rely on its regional haze program to address this element.

11. 110(a)(2)(K): *Air Quality Modeling and Submission of Modeling Data:* Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to the EPA can be made. Sections APC–S–2, V. B.—*Permit Regulation for the Construction and/or Operation of Air Emissions Equipment,* and APC–S–5, *Mississippi Regulations for the Prevention of Significant Deterioration of Air Quality,* specify that required air modeling be conducted in accordance with 40 CFR part 51, Appendix W, *Guideline on Air Quality Models,* as incorporated into the Mississippi SIP. Also of note, *Mississippi Code Title* 49, Section 49–17–17(e) (Appendix A–9),[25] authorizes MDEQ to ''encourage, participate in, or conduct studies, investigations, research and demonstrations relating to air and water quality and pollution and causes, prevention, control and abatement as it may deem advisable and necessary for the discharge of its duties under [the Mississippi air and water pollution control law].'' These standards

[25] *Mississippi Code Title 49* is referenced in the State's infrastructure SIP submissions as ''Appendix A–9.'' As discussed above, unless otherwise indicated herein, portions of the Mississippi Code referenced in this proposal are not incorporated into the SIP.

demonstrate that Mississippi has the authority to perform air quality monitoring and provide relevant data for the purpose of predicting the effect on ambient air quality of the 2012 Annual $PM_{2.5}$ NAAQS. Additionally, Mississippi supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2012 Annual $PM_{2.5}$ NAAQS, for the southeastern states. Taken as a whole, Mississippi's air quality regulations and practices demonstrate that MDEQ has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2012 Annual $PM_{2.5}$ NAAQS. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate the State's ability to provide for air quality and modeling, along with analysis of the associated data, related to the 2012 Annual $PM_{2.5}$ NAAQS when necessary. Accordingly, EPA is proposing to approve Mississippi's infrastructure SIP submission with respect to section 110(a)(2)(K).

12. 110(a)(2)(L): *Permitting fees:* Section 110(a)(2)(L) requires the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

Mississippi's *Mississippi Code Title* 49, Section 49–2–9(c) (Appendix A–9), authorizes MDEQ to apply for, receive, and expend Federal or State funds in order to operate its air programs. Mississippi SIP *Mississippi Code Title* 49, Section 49–17–30 (Appendix A–9), provides for the assessment of title V permit fees to cover the reasonable cost of reviewing and acting upon air permitting activities in the State including title V, PSD and NNSR permits. *Mississippi Code Title 49,* Section 49–17–14 (Appendix A–9), allows MDEQ to expend or utilize monies in the Mississippi Air Operating Permit Program Fee Trust Fund to pay all reasonable direct and indirect costs associated with the development and administration of the title V program and the PSD and NNSR permitting programs. The Mississippi Air Operating Permit Program Fee Trust Fund consists of State legislative appropriations, Federal grant funds and title V fees. Additionally, Mississippi has a federally-approved title V operating permit program at Section APC–S–6 [26] that covers the implementation and enforcement of PSD and NNSR permits after they have been issued. EPA has made the preliminary determination that Mississippi adequately provides for permitting fees related to the 2012 Annual $PM_{2.5}$ NAAQS when necessary.

13. 110(a)(2)(M): *Consultation and Participation by Affected Local Entities:* Section 110(a)(2)(M) of the Act requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. *Mississippi Code Title 49,* Sections 49–17–17(c) 49–17–19(b) (Appendix A–9) requires that MDEQ notify the public (including local political subdivisions) of an application, preliminary determination, the activity or activities involved in the permit action, any emissions change associated with any permit modification, and the opportunity for comment prior to making a final permitting decision. Additionally, MDEQ works closely with local political subdivisions during the development of its transportation conformity SIP and regional haze SIP. EPA has made the preliminary determination that Mississippi's SIP and practices adequately demonstrate consultation with affected local entities related to the 2012 Annual $PM_{2.5}$ NAAQS.

V. Proposed Action

With the exception of interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states and visibility protection requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4), and the state board majority requirements respecting the significant portion of income of section 110(a)(2)(E)(ii), EPA is proposing to approve Mississippi's December 11, 2015, SIP submission for the 2012 Annual $PM_{2.5}$ NAAQS for the above described infrastructure SIP requirements. EPA is proposing to approve these portions of Mississippi's infrastructure SIP submission for the 2012 Annual $PM_{2.5}$ NAAQS because these aspects of the submission are consistent with section 110 of the CAA. With regard to the state board majority requirements respecting significant portion of income, EPA is proposing to disapprove Mississippi's December 11, 2015, infrastructure submission.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of a CAA Part D Plan or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP call) starts a sanctions clock. The portion of section 110(a)(2)(E)(ii) provisions (the provisions being proposed for disapproval in this notice) were not submitted to meet requirements for Part D or a SIP call, and therefore, if EPA takes final action to disapprove this submittal, no sanctions will be triggered. However, if this disapproval action is finalized, that final action will trigger the requirement under section 110(c) that EPA promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the disapproval unless the State corrects the deficiency, and EPA approves the plan or plan revision before EPA promulgates such FIP.

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive

[26] Title V program regulations are federally-approved but not incorporated into the federally-approved SIP.

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 CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: May 26, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–13601 Filed 6–7–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 13–49; Report No. 3045]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petitions for reconsideration.

SUMMARY: Petitions for Reconsideration (Petitions) have been filed in the Commission's Rulemaking proceeding by James Arden Barnett, Jr., Esq., on behalf of Global Automakers, Inc., Ari Q. Fitzgerald, on behalf of Alliance of Automobile Manufacturers, and Stephen E. Coran, on behalf of The Wireless Internet Service Providers Association.

DATES: Oppositions to the Petitions must be filed on or before June 23, 2016. Replies to an opposition must be filed on or before July 5, 2016.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Aole Wilkins, Policy and Rules Division, Office of Engineering and Technology, (202) 418–2406, email: *Aole.Wilkins@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of Commission's document, Report No. 3045, released May 20, 2016. The full text of the Petitions is available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554 or may be accessed online via the Commission's Electronic Comment Filing System at *http://apps.fcc.gov/ecfs/.* The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Notice* does not have an impact on any rules of particular applicability.

Subject: In the Matter of Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U–NII) Devices in the 5 GHz Band, published at 81 FR 19896, April 6, 2016, and FCC 16–24. This *Notice* is being published pursuant to 47 CFR 1.429(e). *See also* 47 CFR 1.4(b)(1).

Number of Petitions Filed: 3.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer. Office of the Secretary.

[FR Doc. 2016–13485 Filed 6–7–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 391

Federal Railroad Administration

49 CFR Parts 240 and 242

[Docket Numbers FMCSA–2015–0419 and FRA–2015–0111]

RIN 2126–AB88 and 2130–AC52

Evaluation of Safety Sensitive Personnel for Moderate-to-Severe Obstructive Sleep Apnea

AGENCY: Federal Motor Carrier Safety Administration (FMCSA) and Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM); extension of comment period.

SUMMARY: FMCSA and FRA published an ANPRM on March 10, 2016, requesting certain information regarding the evaluation of safety sensitive personnel for moderate-to-severe obstructive sleep apnea (OSA). The comment period for the ANPRM is extended from June 8, 2016, to July 8, 2016.

DATES: The comment period for the ANPRM published in the **Federal Register** on March 10, 2016 (81 FR 12642) is extended. Comments on the ANPRM are due by July 8, 2016.

ADDRESSES: You may submit comments identified by either of the docket numbers listed at the beginning of this document using any one of the following methods:

Federal Rulemaking Portal: www.regulations.gov.

Fax: 202–493–2251.

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

Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' heading under the **SUPPLEMENTARY INFORMATION** section below for instructions regarding submitting comments.

FOR FURTHER INFORMATION CONTACT: *FMCSA:* Ms. Christine Hydock, Chief of the Medical Programs Division, FMCSA, 1200 New Jersey Ave SE., Washington,

DC 20590–0001, by telephone at 202–366–4001, or by email at *fmcsamedical@dot.gov.*

FRA: Dr. Bernard Arseneau, Medical Director, Assurance and Compliance, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at 202–493–6232, or by email at *Bernard.arseneau@dot.gov.*

If you have questions about viewing or submitting material to the docket, call Ms. Cheryl Collins, Dockets Manager, Docket Services, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

FMCSA and FRA encourage you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this document (FMCSA–2015–0419 or FRA–2015–0111), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA and FRA recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and enter either docket number, ''FMCSA–2015–0419'' or ''FRA–2015–0111'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA and FRA will consider all comments and material received during the comment period and may change this document based on your comments.

Viewing Comments and Documents

To view comments, as well as documents available in the docket, go to *http://www.regulations.gov* and insert the docket number, ''FMCSA–2015–0419'' or ''FRA–2015–0111'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Privacy Act

Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its potential rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Background

On May 18, 2016, the Owner Operator Independent Drivers Association (OOIDA) requested an extension to the comment period (Docket ID: FMCSA–2015–0419–0348) in order to review the results from the American Transportation Research Institute (ATRI) Commercial Driver Survey on Sleep Apnea Issues (*http://atri-online.org/2016/04/14/atri-launches-commercial-driver-survey-on-sleep-apnea-issues/*). In its request, OOIDA stated that the survey will provide a comprehensive look at the impact of OSA screening and treatment within the motor carrier community that is beyond the information which any one carrier can provide. Furthermore, with this data in hand, OOIDA will be able to present a better analysis of the information requested by the ANPRM. ATRI released its survey results on Thursday, May 26, 2016.

FMCSA and FRA believe that other potential commenters to this rulemaking will benefit from an extension as well. Accordingly, FMCSA and FRA extend the comment period for all comments on the ANPRM and its related documents to July 8, 2016.

Issued under the authority of delegations in 49 CFR 1.87(f) and (i) and 49 CFR 1.89(a), respectively: June 2, 2016.

Larry W. Minor,

Associate Administrator for Policy, Federal Motor Carrier Safety Administration.

Robert C. Lauby,

Associate Administrator for Railroad Safety & Chief Safety Officer, Federal Railroad Administration.

[FR Doc. 2016–13564 Filed 6–7–16; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register

Vol. 81, No. 110

Wednesday, June 8, 2016

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0036]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Mangoes From India Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of mangoes from India into the continental United States.

DATES: We will consider all comments that we receive on or before August 8, 2016.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2016-0036.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0036, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0036* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the importation of mangoes from India, contact Dr. Nicole Russo, Assistant Director, Regulatory Coordination and Compliance, PHP, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 851–2159. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: Importation of Mangoes From India Into the Continental United States.

OMB Control Number: 0579–0312.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant Health Inspection Service (APHIS) regulates the importation of fruits and vegetables into the United States from certain parts of the world as provided in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–75).

Under § 319.56–46 of the regulations, APHIS allows the importation of mangoes from India into the continental United States under certain conditions to prevent the introduction of plant pests into the United States. These conditions involve the use of information collection activities, one of which is a phytosanitary certificate. As a condition of entry, the mangoes must undergo irradiation treatment and be accompanied by a phytosanitary certificate with additional declaration statements providing specific information regarding the treatment and inspection of the mangoes and the orchards in which they are grown. The additional information collection activities include a preclearance workplan, trust fund agreement, compliance agreement, monitoring of inspections, and recordkeeping.

Since the last approval of this collection by the Office of Management and Budget (OMB), we have added activities that were previously not accounted for, such as an orchard inspection agreement between APHIS and the national plant protection organization (NPPO) of India, package labeling identifying the treatment facility and date of treatment, treatment certification, and denial/withdrawal of facility certification. We have also revised the estimates of burden associated with this information collection.

We are asking OMB to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.016 hours per response.

Respondents: Importers of mangoes and the NPPO of India.

Estimated annual number of respondents: 76.

Estimated annual number of responses per respondent: 1,233.

Estimated annual number of responses: 93,713.

Estimated total annual burden on respondents: 1,509 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request

for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 2nd day of June 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–13567 Filed 6–7–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability (NOFA); Cotton Ginning Cost-Share (CGCS) Program Payments to Cotton Producers

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: This NOFA announces the availability of cost-share funds to certain cotton producers of the United States, specifically for the 2015 cotton crop. Eligible CGCS participants will receive a one-time payment, calculated based on a cost-share not to exceed 40 percent of calculated ginning costs by region, the number of cotton acres that were planted, including failed acreage, for the 2015 crop year, and the percentage of share the participant had in the cotton. Similar to other Commodity Credit Corporation (CCC) programs, certain eligibility requirements apply, such as a $40,000 per individual or entity payment limit and a requirement that each participant's 3-year average adjusted gross income (AGI) be $900,000 or less. CGCS Program payments will be made to help the domestic cotton industry find new and improved ways to market cotton.

DATES: Application period: June 20, 2016 through August 5, 2016.

FOR FURTHER INFORMATION CONTACT: Kelly Hereth, (202) 720–0448.

SUPPLEMENTARY INFORMATION:

Background

U.S. upland and extra-long staple (ELS) cotton producers are required to gin and bale cotton before either of the components of cotton (lint or seed) can be marketed, as there is no commerce in un-ginned bales. Approximately 13 million bales were ginned for the 2015 cotton crop year. There exists, however, 2014 cotton production carryover (ginned cotton inventory that has not yet been sold), as well as the 2015 cotton crop production some which has not been marketed. While the payments are based on ginning costs, the intended effect of the CGCS Program is to aid the broader marketing chain associated with cotton. For example, there is a direct cost to cotton producers associated with ginning for improved bale packing and storage to meet the ever increasing quality demands of the fiber industry, and there is a large domestic market for the cotton seed extracted during the ginning process.

The state of the market has limited the ability of cotton producers to expand domestic markets, develop new and additional markets, maintain existing markets that would have otherwise shrunk and marketing facilities, and increase the uses for cotton. The Commodity Credit Corporation Charter Act (15 U.S.C. 714c(e)) includes authority for CCC to use its general powers to increase the domestic consumption of agricultural commodities (other than tobacco) by expanding or aiding in the expansion of domestic markets or by developing or aiding in the development of new and additional markets, marketing facilities, and uses for such commodities.

The ginning of cotton is necessary prior to marketing the lint for fiber or the seed for oil or feed; therefore CCC is using its general authority to aid in the expansion and maintenance of domestic markets for cotton. Increased domestic consumption and uses for cotton as a result of the CGCS Program payments to cotton producers, based on cotton ginning costs, will aid more than just the farmers; as the cotton gins, cooperatives, marketers, cottonseed crushers, and other marketing facilities will indirectly benefit also.

CGCS is being done as a NOFA, as opposed to a regulation, because it is a one-time payment to aid expansion and creation of new markets for cotton. Also, CGCS is based upon 2015 cotton crop acres which are already known to FSA through previously submitted acreage reports. Accordingly, there is no benefit for public comment on CGCS.

The Farm Service Agency (FSA) will administer the CGCS Program on behalf of CCC, using CCC funds.

CGCS Description

CGCS is a one-time payment to cotton producers. CGCS will be available to producers of upland and extra-long staple (ELS) cotton. CGCS payments will be available to those cotton producers who had a share in the 2015 cotton acres that were planted, including failed cotton acreage, and reported to FSA, including landowners who had a share interest and risk in the cotton crop and incurred ginning costs for the 2015 cotton crop.

FSA will make approximately $300 million in CGCS payments to cotton producers. The maximum aggregate payment amount a person or legal entity is eligible for under CGCS is $40,000. The funds announced in this NOFA are not subject to sequestration.

Most 2015 cotton crop producers have already submitted the required form FSA–578, ''Report of Acreage'', to FSA, as part of their participation in various FSA and CCC programs. The regulation in 7 CFR part 718 requires producers to report for various commodities, including the number of cotton acres that were planted, including failed acres, in the United States for their 2015 cotton crop and their percentage share of the reported 2015 cotton crop acreage. Accordingly, FSA has already acquired this information as previously reported to FSA on a FSA–578 or a crop acreage report to their crop insurance agent (both reports are referred to in this NOFA as the acreage report). If there were any errors in the previously submitted acreage report, the producer may go through the established FSA process to correct the reported information. Any such requests for correction are subject to review and require approval by FSA through the established process before they are accepted. Because FSA already possesses 2015 cotton acreage report data, we know who is potentially eligible to apply for the CGCS Program and will mail the application to such applicants. Applicants may also apply through an FSA county office.

Payment Limits, Eligible Persons, and Legal Entities

CGCS payments are limited to $40,000 per person or legal entity.

A person or legal entity is ineligible for payments if the person's or legal entity's AGI for the applicable compliance program year is more than $900,000. If a person with an indirect interest in a legal entity has AGI of more than $900,000, the CGCS payments subject to AGI compliance provisions to the legal entity will be reduced as calculated based on the percent interest of the person in the legal entity receiving the payment. The relevant years used to calculate AGI for CGCS are the 2011, 2012, and 2013 tax years. As with other FSA and CCC programs, AGI will be calculated based on the average income for the 3 taxable years preceding the most immediately preceding complete taxable year for which benefits are requested.

In addition to having a share in cotton planted in 2015, to be eligible for a CGCS Program payment, each applicant is required to be a person or legal entity

who was actively engaged in farming in 2015 and otherwise eligible for payment, as specified in 7 CFR part 1400, and who complies with requirements including, but not limited to, those pertaining to highly erodible land conservation and wetland conservation provisions (commonly referred to as the conservation compliance provisions) specified in 7 CFR part 12.

Foreign persons are not eligible for payments. Federal, State, and local governments are not eligible for CGCS payments.

Appeal regulations specified in 7 CFR parts 11 and 780 apply. FSA program requirements and determinations that are not in response to, or result from, an individual disputable set of facts in an individual participant's application for assistance are not matters that can be appealed.

Payment eligibility, payment limits, and AGI limits are the same for CGCS Program payments as they have been for other FSA and CCC programs, for example the Cotton Transition Assistance Program (see 7 CFR parts 1400 and 1412).

Payment Calculation

The CGCS payment will be calculated as follows:

acres × share × CGCS payment rate

Acres are the number of 2015 cotton crop acres (both upland and ELS) in which the applicant had an interest, as reported on their acreage report as planted (including failed acres, but not prevented planted acres).

Share is the producer's or landowner's share of such acres.

As shown in Table 1, the CGCS payment rate is 40 percent times the ginning cost. The ginning cost is the calculated average cost of ginning per acre in the production region. The applicable production region is the State in which the 2015 cotton crop (upland and ELS cotton) was planted (not where the farm operation is located).

There are four production regions, consistent with the U.S. cotton industry's longstanding designation. The per-acre regional rates are defined in Table 1. Cotton acreage planted in 2015 in any state not listed in Table 1, will receive the regional rate based on where the 2015 cotton acres are located, as determined by the Deputy Administrator.

TABLE 1—COTTON PRODUCTION REGIONS

Region	States	Costs of ginning per acre	CGCS payment rate [1]
Southeast	Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia	$118.60	$47.44
Mid-South	Arkansas, Illinois, Kentucky, Louisiana, Missouri, Mississippi, Tennessee	140.65	56.26
Southwest	Kansas, Oklahoma, Texas	92.43	36.97
West	Arizona, California, New Mexico	243.53	97.41

[1] The CGCS Payment Rate is 40 percent times the regional rate.

To develop the costs in Table 1, FSA used the USDA Economic Research Service's calculation of cotton ginning costs, which is based on the Agricultural Resource Management Survey (ARMS). The data is based on a large survey of cotton producers in 2007 and was updated through 2014 using several indices that reflect annual changes in ginning costs. The per planted acre ginning costs were converted to regional averages weighted by each State's share of regional plantings during the most recent 5 years. In the ARMS data, no distinction is made between ginning costs for upland and ELS cotton, so the same rate will be applied to both varieties of cotton.

For example, an applicant has 1,000 acres of upland cotton located in Texas and 500 acres of ELS cotton in New Mexico, and the applicant has 100 percent interest in all of the cotton reported for 2015 for the farm. Even though the farm operation is located in Texas, the applicable CGCS payment rate is based on where the cotton is planted. Therefore, for the acres located in Texas the CGCS payment rate is $36.97, and for the cotton acreage located in New Mexico, the CGCS payment rate is $97.41 (as shown in Table 1). Therefore, the result of the CGCS calculation would be $85,675 ((1,000 cotton acres in Texas × $36.97 per acre × 100 percent share) + (500 acres in New Mexico × $97.41 × 100 percent share)), but the CGCS payment to this applicant would be reduced to $40,000 because the CGCS payment limit is $40,000 per person or legal entity.

Application and Eligible Applicants

To apply for the CGCS Program, each applicant must submit a complete and valid CGCS application (CCC–882 form) to their recording FSA county office either in person, by mail, or by electronic means, including email and facsimile. The application period is from June 20, 2016, through August 5, 2016. CGCS applications must be received by FSA by August 5, 2016. Applicants may revise their application and re-submit it to FSA during the application period; the revised CGCS application must be received by FSA by August 5, 2016. Any application received by FSA after August 5, 2016, will not be considered and will be ineligible for any CGCS payment. The application must include, but is not limited to, the number of 2015 planted acres of cotton (upland and ELS cotton) on the farm, the farm serial number, and tract number of the farm where the cotton acreage was reported. The applicant will be required to submit evidence upon request, such as seed receipts, custom harvesting receipts, or bale gin lists, to substantiate either the claimed share interest in the cotton or the number of cotton acres reported for the 2015 crop year.

In order to be eligible for CGCS, applicants are required to have reported their 2015 crop year planted cotton, including failed acreage, to FSA using the FSA–578 acreage report. Only the number of cotton acres reported on the FSA–578 acreage report, and the producer's share in the planted, including failed, cotton acreage for the 2015 crop year will be eligible for consideration for a CGCS payment. In the event that there are determined acres of planted, including failed, cotton (upland and ELS cotton) crop acreage for 2015, as verified by FSA in carrying out acreage reporting compliance activities, then determined acres will be used in place of the reported acres. (Standard FSA acreage report compliance activities include verifying the number of reported acres; the results are referred to as ''determined acres.'')

The applicant's share interest in cotton acres on a CGCS application cannot be greater than the share interest in cotton acres as reported on the

acreage report. FSA will verify and confirm the applicant's share interest in cotton acres reported on the CGCS application by comparing it to the applicant's share interest in the cropland as reported on that farm's acreage report for the 2015 crop year. For example, if a farm has 50 acres of cotton and two producers report equal shares of the 50 acres of cotton, each must each have a 100 percent share interest in at least 25 cotton acres (or 50 percent share in the 50 reported cotton acres) reported on the farm acreage report for the 2015 crop year to support their reported share of cotton acres on that farm.

If an eligible applicant has sold or leased a farm that produced cotton in 2015, the applicant may assign the CGCS payment by completing form CCC–36. However, under no circumstances will CCC pay both the 2015 producer and the 2016 producer of such cotton.

As noted above, if there are any corrections required for acreage reports, they may be made, however corrections related to upland or ELS cotton acres or shares must be received by FSA by August 5, 2016, the CGCS Program application deadline in order to be used to calculate the CGCS payment. Any correction to 2015 cotton crop acres made to the acreage report after August 5, 2016, is not eligible to be considered for CGCS.

Process for Evaluation of CGCS Applications and Approval of Payments

FSA will review each CCC–882 application to determine eligibility by verifying that the application is complete and the number of cotton acres the applicant certified on the application for the 2015 crop year is the same as reported on the FSA–578 acreage report.

When there are multiple eligible applicants for a farm, FSA will approve an application for the CGCS Program and approve the division of payment when all the following, as applicable, occur or have been determined to have occurred:

(1) Each landlord, tenant, and sharecropper that apply sign their own CGCS Program application, and their combined payment shares recorded on the application when added together cannot exceed 100 percent of the shares recorded on the acreage report for the 2015 cotton crop for the farm, and neither the landlord, tenant, nor sharecropper can receive 100 percent of CGCS payment for the farm;

(2) CCC determines that the interests of tenants and sharecroppers are being protected by confirming the shares are consistent with the acreage report;

(3) The applicant, upon the FSA county office committee's request, if necessary, will provide a copy of the lease agreement; and

(4) CCC determines that the payment shares do not circumvent either the provisions of this NOFA or the provisions of 7 CFR part 1400.

The result of an approved application will be a one-time payment, consistent with the terms specified in this NOFA and the payment application. All applications are subject to the approval by FSA on behalf of CCC, and FSA will not approve ineligible applications.

Provisions Requiring Refund to FSA

In the event that any application for a CGCS payment resulted from erroneous information or a miscalculation, the payment will be recalculated and the participant must refund any excess to FSA with interest to be calculated from the date of the disbursement to the participant. If for whatever reason FSA determines that the applicant misrepresented either the acreage or share of cotton acreage or both, or if the CGCS payment would exceed the participant's payment based upon correct acreage and share, the application will be disapproved and the full CGCS payment for that crop and participant will be required to be refunded to FSA with interest from date of disbursement. If any corrections to the 2015 cotton crop acres or shares are made to the acreage report after August 5, 2016, and would have resulted in a lower CGCS payment, the applicant will be required to refund the difference with interest from date of disbursement.

The liability of anyone for any penalty or sanction resulting from a CGCS application, or for any refund to FSA or related charge is in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001, and 1014; 15 U.S.C. 714; and 31 U.S.C. 3729.

Paperwork Reduction Act Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), OMB approved an emergency information collection request on CGCS so FSA can begin the application period upon publication of this NOFA.

Environmental Review

Because this is a one-time payment, there are no impacts to the human environment as defined by NEPA and, as such, no Environmental Assessment or Environmental Impact Statement will be prepared.

Val Dolcini,

Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2016–13672 Filed 6–7–16; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Submission for OMB Review; Comment Request

June 2, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 8, 2016 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Farm Service Agency

Title: 7 CFR 1437, Noninsured Disaster Assistance Program and Report of Acreage.

OMB Control Number: 0560–0175.

Summary Of Collection: The Noninsured Crop Assistance Program (NAP) is authorized under 7 U.S.C. 7333 and implemented under regulations issued at 7 CFR part 1437. NAP is administered by the Farm Service Agency (FSA) for the Commodity Credit Corporation (CCC) and is carried out by FSA State and County committees. The purpose of NAP is to help manage and reduce production risks faced by producers of eligible commercial crops or other agricultural commodities during a coverage period. NAP reduces financial losses that occur when natural disasters (damaging weather or adverse natural occurrence that is an eligible cause of loss) cause a loss of expected production or actual value for value loss crops, or where producers are prevented from planting an eligible crop because of an eligible cause of loss in a coverage period. NAP provides assistance for losses of floriculture, ornamental nursery, Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), industrial crops, and sea oats sea grass, biomass, sweet sorghum and biomass sorghum. FSA will collect information using several forms.

Need and Use of the Information: The information collected is necessary to determine whether a producer and crop or commodity meet applicable conditions for assistance and to determine compliance with existing regulations. Producers must annually: (1) Request NAP coverage by completing an application for coverage and paying a service fee by the CCC-established application closing date; (2) file a current crop-year report of acreage for the covered crop or commodity; and (3) certify harvest production of each covered crop or commodity. The information collected allows CCC to provide assistance under NAP for losses of commercial crops or other agricultural commodities (except livestock) for which catastrophic risk protection under 7 U.S.C. Section 1508 is not available. Eligible crops including commercial crops and agricultural commodities (except livestock) that are produced for food or fiber or specifically included by statute, including floriculture, ornamental nursery, Christmas trees, turfgrass sod, seed crops, aquaculture (including ornamental fish), industrial crops, and sea grass sea oats, biomass, sweet sorghum and biomass sorghum.

Description of Respondents: Farms; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 72,294.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly; Monthly; Annually.

Total Burden Hours: 933,528.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–13538 Filed 6–7–16; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes-Ochoco Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes and Ochoco Resource Advisory Committee (RAC) will meet in Bend, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/detail/deschutes/working together/advisorycommittees.*

DATES: The meeting will be held June 23, 2016, at 9:00 a.m. to 5:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Central Oregon Intergovernmental Council's Office, 334 Northeast Hawthorne Avenue, Bend, Oregon.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Deschutes National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Sean Ferrell, RAC Coordinator, by phone at 541–383–5576 or via email at *saferrell@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Discuss the goals and objectives of the RAC;
2. Review projects proposals; and
3. Make project recommendations for Title II funding.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 13, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Sean Ferrell, RAC Coordinator, Deschutes National Forest Supervisor's Office, 63095 Deschutes Market Road, Bend, Oregon 97701; by email to *saferrell@fs.fed.us,* or via facsimile to 541–383–5531.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: June 1, 2016.

A. Shane Jeffries,

Deschutes National Forest, Deputy Forest Supervisor.

[FR Doc. 2016–13560 Filed 6–7–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), the

Rural Utilities Service, an agency of the United States Department of Agriculture's (USDA), invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5164 South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492, FAX: (202) 720–4120. Email: *Thomas.Dickson@wdc.usda.gov*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for revision.

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 will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques on other forms and information technology. Comments may be sent to Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5164 South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078, FAX: (202) 690–4492. Email: *Thomas.Dickson@wdc.usda.gov*.

Title: Special Evaluation Assistance for Rural Communities and Household Program (SEARCH).

OMB Control Number: 0572–0146.

Type of Request: Extension of currently approved package.

Abstract: The Food, Conservation and Energy Act of 2008, Public Law 110–246 (Farm Bill) amended section 306(a)(2) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926 (a)(2)). The amendment created a grant program to make Special Evaluation Assistance for Rural Communities and Households (SEARCH) Program grants.

Under the SEARCH program, the Secretary may make predevelopment and planning grants to public or quasi-public agencies, organizations operated on a not-for-profit basis or Indian tribes on Federal and State reservations and other federally recognized Indian tribes. The grant recipients shall use the grant funds for feasibility studies, design assistance, and development of an application for financial assistance to financially distressed communities in rural areas with populations of 2,500 or fewer inhabitants for water and waste disposal projects as authorized in sections 306(a)(1), 306(a)(2) and 306(a)(24) of the CONACT.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per responses.

Estimated Number of Respondents: 25.

Estimated Number of Total Annual Responses per Respondents: 310.

Estimated Total Annual Burden on Respondents: 635.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5162 South Building, Washington, DC 20250–1522. Telephone: (202) 720–7853, FAX: (202) 720–4120. Email: *MaryPat.Daskal@wdc.usda.gov*.

All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: June 2, 2016.

Brandon McBride,

Administrator, Rural Utilities Service .

[FR Doc. 2016–13543 Filed 6–7–16; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Advisory Committees Expiration

AGENCY: United States Commission on Civil Rights.

ACTION: Solicitation of applications.

SUMMARY: Because the terms of the members of the North Carolina Advisory Committee are expiring on July 24, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the North Carolina Advisory Committee, and applicants must be residents of North Carolina to be considered. Letters of interest must be received by the Southern Regional Office of the U.S. Commission on Civil Rights no later than June 24, 2016. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Missouri Advisory Committee are expiring on July 24, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Missouri Advisory Committee, and applicants must be residents of Missouri to be considered. Letters of interest must be received by the Central Regional Office of the U.S. Commission on Civil Rights no later than June 24, 2016. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Arizona Advisory Committee are expiring on July 24, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Arizona Advisory Committee, and applicants must be residents of the Arizona to be considered. Letters of interest must be received by the Western Regional Office of the U.S. Commission on Civil Rights no later than June 24, 2016. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Oklahoma Advisory Committee are expiring on August 14, 2016, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Oklahoma Advisory Committee, and applicants must be residents of the Oklahoma to be considered. Letters of interest must be received by the Central Regional Office of the U.S. Commission on Civil Rights no later than July 14, 2016. Letters of interest must be sent to the address listed below.

DATES: Letters of interest for membership on the North Carolina Advisory Committee should be received no later than June 24, 2016.

Letters of interest for membership on the Missouri Advisory Committee should be received no later than June 24, 2016.

Letters of interest for membership on the Arizona Advisory Committee should be received no later than June 24, 2016.

Letters of interest for membership on the Oklahoma Advisory Committee should be received no later than July 14, 2016.

ADDRESSES: Send letters of interest for the North Carolina Advisory Committee to: U.S. Commission on Civil Rights, Southern Regional Office, 61 Forsyth Street SW., Suite 1840T, Atlanta, GA 30303. Letter can also be sent via email to *jhinton@usccr.gov.*

Send letters of interest for the Missouri Advisory Committee to: U.S. Commission on Civil Rights, Central Regional Office, 400 State Avenue, Suite 908, Missouri City, KS 66101. Letter can also be sent via email to *csanders@usccr.gov.*

Send letters of interest for the Arizona Advisory Committee to: U.S. Commission on Civil Rights, Western Regional Office, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. Letter can also be sent via email to *atrevino@usccr.gov.*

Send letters of interest for the Oklahoma Advisory Committee to: U.S. Commission on Civil Rights, Western Regional Office, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. Letter can also be sent via email to *atrevino@usccr.gov.*

FOR FURTHER INFORMATION CONTACT: David Mussatt, Chief, Regional Programs Unit, 55 W. Monroe St., Suite 410, Chicago, IL 60603, (312) 353–8311. Questions can also be directed via email to *dmussatt@usccr.gov.*

SUPPLEMENTARY INFORMATION: The North Carolina, Missouri, Arizona, and Oklahoma Advisory Committees are statutorily mandated federal advisory committees of the U.S. Commission on Civil Rights pursuant to 42 U.S.C. 1975a. Under the charter for the advisory committees, the purpose is to provide advice and recommendations to the U.S. Commission on Civil Rights (Commission) on a broad range of civil rights matters in its respective state that pertain to alleged deprivations of voting rights or discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or the administration of justice. Advisory committees also provide assistance to the Commission in its statutory obligation to serve as a national clearinghouse for civil rights information.

Each advisory committee consists of not more than 19 members, each of whom will serve a four-year term. Members serve as unpaid Special Government Employees who are reimbursed for travel and expenses. To be eligible to be on an advisory committee, applicants must be residents of the respective state or district, and have demonstrated expertise or interest in civil rights issues.

The Commission is an independent, bipartisan agency established by Congress in 1957 to focus on matters of race, color, religion, sex, age, disability, or national origin. Its mandate is to:

- Investigate complaints from citizens that their voting rights are being deprived,
- study and collect information about discrimination or denials of equal protection under the law,
- appraise federal civil rights laws and policies,
- serve as a national clearinghouse on discrimination laws,
- submit reports and findings and recommendations to the President and the Congress, and
- issue public service announcements to discourage discrimination.

The Commission invites any individual who is eligible to be appointed a member of the North Carolina, Missouri, Arizona, or Oklahoma Advisory Committee covered by this notice to send a letter of interest and a resume to the respective address above.

Dated: June 2, 2016.

David Mussatt

Chief, Regional Programs Unit.

[FR Doc. 2016–13507 Filed 6–7–16; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Mexico Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a briefing meeting of the New Mexico Advisory Committee to the Commission will convene at 10:00 a.m. (MDT) on Friday, June 24, 2016, at the Main Library, 501 Copper Avenue NW., Albuquerque, NM 87102. The purpose of the briefing meeting is to explore the topic of Elder Abuse. The Briefing topics will include elder care services, non or limited access to care that may be impacted by finances, legal services, and structure of services. The New Mexico Advisory Committee will hear from individuals, advocacy groups, community organizations, and representatives of local, state, and Federal agencies. A planning meeting will convene at 6:00 p.m. (MDT) on Thursday, June 23, 2016, at a location that is TBD. The purpose of the planning meeting is for the committee to review the agenda and procedures of the next day briefing meeting. .

If other persons who plan to attend the meeting require other accommodations, please contact Evelyn Bohor at *ebohor@usccr.gov* at the Rocky Mountain Regional Office at least ten (10) working days before the scheduled date of the meeting.

Time will be set aside at the end of the briefing so that members of the public may address the Committee after the formal presentations have been completed. Persons interested in the issue are also invited to submit written comments; the comments must be received in the regional office by Monday, July 24. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=264* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

AGENDA:

Welcome and Introductions
- Sandra Rodriguez, Chair, New Mexico Advisory Commitee
- Malee V. Craft, Regional Director, RMRO–USCCR, Denver, CO

Briefing
- New Mexico Advisory Committee
- Government Officials, Advocates, Experts

DATES: Friday, June 24, 2016 (MDT).

ADDRESSES: Main Library, 501 Copper Avenue NW., Albuquerque, NM 87102.

FOR FURTHER INFORMATION CONTACT: Malee Craft at *mcraft@usccr.gov,* or 303–866–1040

Dated: Thursday, June 2, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–13508 Filed 6–7–16; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Missouri Advisory Committee To Discuss Approval of a Report to the Commission Regarding Civil Rights and Police/Community Relations in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Missouri Advisory Committee (Committee) will hold a meeting on Tuesday, June 28, 2016, at 1:00 p.m. CDT for the purpose of discussing approval of a report to the Commission regarding civil rights and police/community interactions in Missouri.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–539–3612, conference ID: 2570459. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur regular charges for calls they initiate over wireless lines according to their wireless plan, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public may comment in advance of the meeting, or at the designated public comment period during the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available at *https://database.faca.gov/committee/meetings.aspx?cid=258.* Click on ''meeting details'' and ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Introductions
Committee Discussion: Draft report resulting from Committee hearings on Civil Rights and Police/Community Relations in Missouri. (February 23, 2015 St. Louis; August 20, 2015 Kansas City)
Open Comment
Recommendations and Next Steps

DATES: The meeting will be held on Tuesday, June 28, 2016, at 1:00 p.m. CDT.

Public Call Information

Dial: 888–539–3612
Conference ID: 2570459

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at 312–353–8311 or *mwojnaroski@usccr.gov.*

Dated: June 2, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–13506 Filed 6–7–16; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–535–903]

Circular Welded Carbon-Quality Steel Pipe From Pakistan: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that circular welded carbon-quality steel pipe (circular welded pipe) from Pakistan is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation is October 1, 2014, through September 30, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective: June 8, 2016.

FOR FURTHER INFORMATION CONTACT: David Lindgren, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3870.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated this investigation on November 17, 2015.[1] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[2] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is circular welded pipe from Pakistan. Interested parties filed comments regarding the scope of the investigation, which resulted in one clarification to the scope language and are addressed, in detail, in the Department's Preliminary Scope Decision Memorandum.[3] For a full

[1] *See Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less Than Fair Value Investigations*, 80 FR 73708 (November 25, 2015) (*Initiation Notice*).

[2] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, From Gary Taverman, Associate Deputy Assistant Secretary for Enforcement and Compliance, ''Circular Welded Carbon-Quality Steel Pipe from Pakistan: Affirmative Preliminary Less Than Fair Value Determination Decision Memorandum,'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[3] *See* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Enforcement and

Continued

description of the scope of this investigation, *see* Appendix I to this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a)–(b) of the Act, the Department has preliminarily relied upon facts otherwise available, with adverse inferences, to assign an estimated weighted-average dumping margin to the sole mandatory respondent International Industries Limited (IIL). For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all-others'' rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. We cannot apply the methodology described in section 735(c)(5)(A) of the Act to calculate the ''all-others'' rate, as the only margin in this preliminary determination was calculated under section 776 of the Act. In cases where no weighted-average dumping margins besides zero, *de minimis*, or those determined entirely under section 776 of the Act have been established for individually examined entities, in accordance with section 735(c)(5)(B) of the Act, the Department averages the margins calculated in the petition and applies the result to ''all-other'' entities not individually examined. In this case, however, only one margin was calculated in the petition. Therefore, we assigned as the ''all-others'' rate the only margin in the Petition, which is 11.80 percent.[4]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/ producer	Weighted-average margin (percent)
International Industries Limited ..	11.80
All-Others	11.80

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from Pakistan, as described in the ''Scope of the Investigation'' section, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit equal to the weighted-average margin, as indicated in the chart above.[5] These suspension of liquidation instructions will remain in effect until further notice.

Public Comment

Interested parties are invited to comment on this preliminary determination. Case briefs may be submitted no later than 30 days from the publication of this preliminary determination in the **Federal Register**.[6] Rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.[7] Parties submitting case briefs and/or rebuttal briefs in this proceeding are encouraged to submit the following in regard to each argument: (1) A statement of the issue, (2) a brief (*i.e.*, no longer than five pages) summary of the argument, and (3) a table of authorities.[8]

The Department also invites parties to comment on the Preliminary Scope Decision Memorandum. Written comments concerning scope issues may be submitted no later than 30 days from the publication of this preliminary determination and should be submitted separately from the briefs. Scope-related comments must be filed on the record of this investigation, as well as the companion antidumping duty investigations of circular welded pipe from the Sultanate of Oman, the United Arab Emirates, and the Socialist Republic of Vietnam and the countervailing duty investigation of circular welded pipe from Pakistan.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request within 30 days of the publication of the preliminary determination in the **Federal Register**.[10] Such requests should include the party's name, address, and telephone number, as well as the number of participants and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case briefs and rebuttal briefs, as well as any requests for a hearing, electronically, using ACCESS.[11] Electronically-filed documents must be successfully received in their entirety via ACCESS no later than 5:00 p.m. Eastern Time by the abovementioned deadlines.[12]

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

IIL, the mandatory respondent, requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.*, to 135 days after publication of the preliminary determination) and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR

Compliance, ''Antidumping Duty Investigations of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam and Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Scope Comments Decision Memorandum for the Preliminary Determinations,'' April 1, 2016 (Preliminary Scope Decision Memorandum).

[4] *See Certain Oil Country Tubular Goods From Thailand: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10487, 10488 (February 25, 2014), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Oil Country Tubular Goods From Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 41978, 41979 (July 18, 2014).

[5] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

[6] *See* 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

[7] *See* 19 CFR 351.309(d)(1)–(2).

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] *See* Preliminary Scope Decision Memorandum.

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.303(b)(2)(i).

[12] *See* 19 CFR 351.303(b)(1).

351.210(e)(2), from a four-month period to a period not to exceed six months.[13]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, (3) the requesting exporter has requested extension of provisional measures to a period not more than six months, and (4) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after publication of this notice in the **Federal Register** and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will issue our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[14]

International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the U.S. International Trade Commission (the ITC) of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine whether or not imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry within 120 days of publication of this preliminary determination or 45 days of publication of our final determination, whichever is later.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (O.D.) not more than nominal 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International (ASTM), proprietary, or other), generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which:

(a) Iron predominates, by weight, over each of the other contained elements;

(b) the carbon content is 2 percent or less, by weight; and

(c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium; or
(xiv) 0.15 percent of zirconium.

Covered products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (API) API–5L specification, may also be covered by the scope of these investigations. In particular, such multi-stenciled merchandise is covered when it meets the physical description set forth above, and also has one or more of the following characteristics: Is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

Standard pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications.

Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications.

Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Products that meet the physical description set forth above but are made to the following nominal outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, are included despite being certified to ASTM mechanical tubing specifications:

O.D. in inches (nominal)	Wall thickness in inches (nominal)	Gage
1.315	0.035	20
1.315	0.047	18
1.315	0.055	17
1.315	0.065	16
1.315	0.072	15
1.315	0.083	14
1.315	0.095	13
1.660	0.055	17
1.660	0.065	16
1.660	0.083	14
1.660	0.095	13
1.660	0.109	12
1.900	0.047	18
1.900	0.055	17
1.900	0.065	16
1.900	0.072	15
1.900	0.095	13
1.900	0.109	12
2.375	0.047	18
2.375	0.055	17
2.375	0.065	16
2.375	0.072	15
2.375	0.095	13
2.375	0.109	12
2.375	0.120	11
2.875	0.109	12
2.875	0.165	8
3.500	0.109	12
3.500	0.165	8
4.000	0.148	9
4.000	0.165	8
4.500	0.203	7

The scope of this investigation does not include:

(a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn, which are defined by standards such as ASTM A178 or ASTM A192;

(b) finished electrical conduit, *i.e.*, Electrical Rigid Steel Conduit (also known as Electrical Rigid Metal Conduit and Electrical Rigid Metal Steel Conduit), Finished Electrical Metallic Tubing, and Electrical Intermediate Metal Conduit, which are defined by specifications such as American National Standard (ANSI) C80.1–2005, ANSI C80.3–2005, or ANSI C80.6–2005, and Underwriters Laboratories Inc. (UL) UL–6, UL–797, or UL–1242;

(c) finished scaffolding, *i.e.*, component parts of final, finished scaffolding that enter the United States unassembled as a ''kit.'' A kit is understood to mean a packaged combination of component parts that contains, at the time of importation, all of the necessary component parts to fully assemble final, finished scaffolding;

(d) tube and pipe hollows for redrawing;

(e) oil country tubular goods produced to API specifications;

(f) line pipe produced to only API specifications, such as API 5L, and not multi-stenciled; and

(g) mechanical tubing, whether or not cold-drawn, other than what is included in the above paragraphs.

The products subject to this investigation are currently classifiable in Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5030, 7306.50.5050, and 7306.50.5070. The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written

[13] *See* Letter from IIL, ''CWP from Pakistan—Request to Postpone the Final Determination,'' May 28, 2016.

[14] *See* 19 CFR 351.210(b)(2) and (e).

description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
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[FR Doc. 2016–13481 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On February 2, 2016, the Department of Commerce (the ''Department'') initiated the fourth five-year (''sunset'') review of the antidumping duty order on porcelain-on-steel cooking ware (''POS cookware'') from the People's Republic of China (''PRC'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act'').[1] On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of the domestic interested parties, as well as a lack of response from respondent interested parties, the Department conducted an expedited sunset review of the antidumping duty order, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of this sunset review, the Department finds that revocation of the *Order* would likely lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date:* June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Andrew Devine, Enforcement and Compliance, Office V, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0238.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2016, the Department initiated the fourth sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (''Act'').[2] On February 16, 2016, the Department received a timely notice of intent to participate in the sunset review on behalf of Columbian Home Products LLC (formerly General Housewares Corporation) (''Columbian''), pursuant to 19 CFR 351.218(d)(1)(i).[3] In accordance with 19 CFR 351.218(d)(1)(ii)(A), Columbian is an interested party under section 771(9)(C) of the Act as a producer of the domestic like product. On March 3, 2016, Columbian filed a substantive response in the sunset review within the 30-day deadline, as specified in 19 CFR 351.218(d)(3)(i).[4] The Department did not receive a substantive response from any respondent interested party in the sunset review. On April 4, 2016, the Department made its adequacy determination in the sunset review finding that the Department did not receive a substantive response from any respondent interested party.[5]

Scope of the Order

The subject merchandise is porcelain-on-steel cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the Harmonized Tariff Schedule (''HTSUS'') subheading 7323.94.00.[6]

Analysis of Comments Received

All issues raised in this review are addressed in the ''Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Porcelain-on-Steel Cooking Ware from the People's Republic of China'' (''Issues and Decision Memorandum'') from Christian Marsh, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with and hereby adopted by this notice. The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the *Order* were revoked. Parties may find a complete discussion of all issues raised in the review and the corresponding recommendations in this public memorandum which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (''ACCESS''). Access to ACCESS is available in the Central Records Unit room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at *http://trade.gov/enforcement.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on POS cookware from the PRC would likely lead to continuation or recurrence of dumping at weighted-average margins up to 66.65 percent.

Notice Regarding Administrative Protective Order (''APO'')

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary

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[1] *See Initiation of Five-Year (''Sunset'') Review,* 80 FR 45945 (August 3, 2015) (''*Initiation Notice''*).

[2] *See Initiation of Five-Year (''Sunset'') Review,* 80 FR 45945 (August 3, 2015) (''*Sunset Initiation''*).

[3] *See* Letter to the Secretary from Columbian, ''Five-Year Sunset Review of Antidumping Duty Order on Porcelain-On-Steel Cooking Ware From the People's Republic of China: Notice of Intent to Participate in Sunset Review,'' (February 16, 2016).

[4] *See* Letter to the Secretary from Columbian, ''Five-Year (''Sunset'') Review Of Antidumping Duty Order On Porcelain-On-Steel Cooking Ware From The People's Republic Of China: Columbian's Response To Notice Of Initiation,'' (March 3, 2016) (''*Substantive Response''*).

[5] *See* Letter to the ITC from the Department, ''Sunset Reviews Initiated on February 2, 2016,'' (April 4, 2016); specifically, based on the lack of an adequate response in the sunset review from any respondent party, the Department is conducting an expedited (120-day) sunset review consistent with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). *See also Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516, 13519 (March 20, 1998) (the Department normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response).

[6] *See Porcelain-on-Steel Cooking Ware From the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order,* 76 FR 7534 (February 10, 2011).

information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This sunset review and notice are in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: June 1, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13578 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–523–812]

Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) preliminarily determines that circular welded carbon-quality steel pipe (CWP) from the Sultanate of Oman (Oman) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is October 1, 2014, through September 30, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4929 or (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated this investigation on November 17, 2015.[1] For a complete description of the events that followed the initiation of this investigation, *see* the memorandum that is dated concurrently with this determination and hereby adopted by this notice.[2] There is one mandatory respondent participating in this investigation, Al Jazeera Steel Products Co. SAOG (Al Jazeera). The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*, and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is CWP from Oman. Interested parties filed comments regarding the scope of the investigation, which resulted in one clarification to the scope language and are addressed, in detail, in the Department's Preliminary Scope Decision Memorandum.[3] For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in Appendix I of this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export price is calculated in accordance with section 772 of the Act and normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

All-Others Rate

Consistent with sections 733(d)(1)(A)(ii) and 735(c)(5) of the Act, the Department also calculated an estimated all-others rate. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, we preliminarily calculated an above *de minimis* margin for Al Jazeera, the sole respondent in this investigation. Therefore, the rate calculated for Al Jazeera is also assigned as the all-others rate.

Preliminary Determination[4]

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/ manufacturer	Weighted-average dumping margin (percent)
Al Jazeera Steel Products Co. SAOG	7.86
All Others	7.86

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from Oman, as described in Appendix I of this notice, for all companies, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

[1] *See Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 73708 (November 25, 2015).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled ''Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman'' (Preliminary Decision Memorandum), dated concurrently with this notice.

[3] *See* Department Memorandum, ''Antidumping Duty Investigations of Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam and Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe form Pakistan; Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated April 1, 2016 (Preliminary Scope Decision Memorandum).

[4] On March 14, 2016, the Department postponed the preliminary determination in this investigation until May 31, 2016, *see Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 81 FR 15039 (March 21, 2016).

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require cash deposits [5] equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated in the chart above, as follows: (1) The rate for the mandatory respondent listed above will be the respondent-specific rate we determined in this preliminary determination; (2) if the exporter is not a mandatory respondent identified above, but the producer is, the rate will be the specific rate established for the producer of the subject merchandise; and (3) the rate for all other producers or exporters will be the all-others rate. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the announcement of this preliminary determination in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Public Comment

Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments concerning scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days from the publication of this notice, and rebuttal briefs, limited to scope issues raised in the case briefs, may be submitted no later than five days after the deadline date for case briefs. Scope-related briefs/comments must be filed on the record of this investigation and the concurrent antidumping and countervailing duty CWP investigations. Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to non-scope issues raised in the case briefs, may be submitted no later than five days after the deadline date for case briefs.[6] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Al Jazeera requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.*, to 135 days after publication of the preliminary determination), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[7]

In accordance with sections 735(a)(2)(A) and 733(d) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; (3) the requesting exporter has requested extension of provisional measures to a period not more than six months; and (4) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register** and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will issue our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[8]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (O.D.) not more than nominal 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International (ASTM), proprietary, or other), generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which:

(a) Iron predominates, by weight, over each of the other contained elements;

(b) the carbon content is 2 percent or less, by weight; and

(c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;

(ii) 2.25 percent of silicon;

[5] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

[6] *See* 19 CFR 351.309.

[7] *See* Letter from Al Jazeera entitled, ''Circular Welded Carbon-Quality Steel Pipe from Oman; request to extend final determination,'' dated April 28, 2016.

[8] *See* 19 CFR 351.210(b)(2) and (e).

(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium; or
(xiv) 0.15 percent of zirconium.

Covered products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (API) API–5L specification, may also be covered by the scope of these investigations. In particular, such multi-stenciled merchandise is covered when it meets the physical description set forth above, and also has one or more of the following characteristics: Is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

Standard pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications.

Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications.

Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Products that meet the physical description set forth above but are made to the following nominal outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, are included despite being certified to ASTM mechanical tubing specifications:

O.D. in inches (nominal)	Wall thickness in inches (nominal)	Gage
1.315	0.035	20
1.315	0.047	18
1.315	0.055	17
1.315	0.065	16
1.315	0.072	15
1.315	0.083	14
1.315	0.095	13
1.660	0.055	17
1.660	0.065	16
1.660	0.083	14
1.660	0.095	13
1.660	0.109	12
1.900	0.047	18
1.900	0.055	17
1.900	0.065	16
1.900	0.072	15
1.900	0.095	13
1.900	0.109	12
2.375	0.047	18
2.375	0.055	17
2.375	0.065	16
2.375	0.072	15
2.375	0.095	13
2.375	0.109	12
2.375	0.120	11
2.875	0.109	12
2.875	0.165	8
3.500	0.109	12
3.500	0.165	8
4.000	0.148	9
4.000	0.165	8
4.500	0.203	7

The scope of this investigation does not include:

(a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn, which are defined by standards such as ASTM A178 or ASTM A192;

(b) finished electrical conduit, *i.e.*, Electrical Rigid Steel Conduit (also known as Electrical Rigid Metal Conduit and Electrical Rigid Metal Steel Conduit), Finished Electrical Metallic Tubing, and Electrical Intermediate Metal Conduit, which are defined by specifications such as American National Standard (ANSI) C80.1–2005, ANSI C80.3–2005, or ANSI C80.6–2005, and Underwriters Laboratories Inc. (UL) UL–6, UL–797, or UL–1242;

(c) finished scaffolding, *i.e.*, component parts of final, finished scaffolding that enter the United States unassembled as a ''kit.'' A kit is understood to mean a packaged combination of component parts that contains, at the time of importation, all of the necessary component parts to fully assemble final, finished scaffolding;

(d) tube and pipe hollows for redrawing;

(e) oil country tubular goods produced to API specifications;

(f) line pipe produced to only API specifications, such as API 5L, and not multi-stenciled; and

(g) mechanical tubing, whether or not cold-drawn, other than what is included in the above paragraphs.

The products subject to this investigation are currently classifiable in Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5030, 7306.50.5050, and 7306.50.5070. The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

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2. Test of Comparison Market Sales Prices
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[FR Doc. 2016–13480 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–835]

Furfuryl Alcohol From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 11, 2016, the Department of Commerce (the ''Department'') published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on furfuryl alcohol from the People's Republic of China (''PRC'') covering the period of review (''POR'') June 1, 2014, through May 31, 2015.[1] This review covers one company, Qingdao WenKem Co., Ltd.[2] The Department conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (''the Act''). The Department gave interested parties an opportunity to comment on the *Preliminary Results,* but we received no comments. Hence, these final results are unchanged from the *Preliminary Results.*

DATES: *Effective Date:* June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Mandy Mallott, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration,

[1] *See Furfuryl Alcohol From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 12876 (March 11, 2016) (''*Preliminary Results*'').

[2] *Id.*

U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6430.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 2016, the Department published the *Preliminary Results* of the instant review, preliminarily finding Qingdao WenKem Co., Ltd. to be a part of the PRC-wide entity.[3] We invited interested parties to comment on the *Preliminary Results.*[4] We received no comments from interested parties.

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act'').

Scope of the Order

The merchandise covered by this order is furfuryl alcohol ($C_4H_3OCH_2OH$). Furfuryl alcohol is a primary alcohol, and is colorless or pale yellow in appearance. It is used in the manufacture of resins and as a wetting agent and solvent for coating resins, nitrocellulose, cellulose acetate, and other soluble dyes. The product subject to this order is classifiable under subheading 2932.13.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope is dispositive.

Final Results of Review

As a result of our review, we determine that the following dumping margin on furfuryl alcohol from the PRC exists for Qingdao WenKem Co., Ltd., determined to be a part of the PRC-wide entity,[5] for the period June 1, 2014, through May 31, 2015:

Exporter	Weighted-average dumping margin (percent)
PRC-Wide Entity	45.27

Assessment Rates

We will instruct U.S. Customs and Border Protection (''CBP'') to apply an *ad valorem* assessment rate of 45.27 percent to all entries of subject merchandise during the POR which were produced and/or exported by Qingdao WenKem Co., Ltd. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

[3] *See Preliminary Results,* at 12877.

[4] *Id.*

[5] *Id.*

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Qingdao WenKem Co., Ltd., as part of the PRC-wide entity, will be the PRC-wide rate of 45.27 percent; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 45.27 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement off antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13576 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896]

Magnesium Metal From the People's Republic of China: Final Results of Expedited Second Sunset Review of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this sunset review, the Department of Commerce (''Department'') finds that revocation of the antidumping duty (''AD'') order on magnesium metal from the People's Republic of China would be likely to lead to continuation or recurrence of dumping at the dumping margins identified in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date:* June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Shanah Lee, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6386, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2016, the Department published the notice of initiation of the second sunset review of the AD *Order*[1] on magnesium metal from the People's Republic of China (''PRC''), pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act'').[2] On February 16, 2016, US Magnesium LLC (''Petitioner'') notified the Department of its intent to participate within the 15-day period specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested party claimed interested-party status under section 771(9)(C) of the Act as a

[1] *See Notice of Antidumping Duty Order: Magnesium Metal From the People's Republic of China,* 70 FR 19928 (April 15, 2005) (''*Order*'').

[2] *See Initiation of Five-Year (''Sunset'') Review,* 82 FR 5418 (February 2, 2016) (''*Initiation Notice*'').

manufacturer of a domestic like product in the United States.

On March 3, 2016, the Department received a complete substantive response to the *Initiation Notice,* with respect to the *Order,* from Petitioner within the 30-day period specified in 19 CFR 351.218(d)(3)(i).[3] The Department received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department has conducted an expedited (120-day) sunset review of the antidumping duty order on certain magnesium metal from the PRC.

Scope of the Order

The merchandise covered by the order is magnesium metal from the PRC, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-backed scrap into magnesium metal. The magnesium covered by this investigation includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an ''ASTM Specification for Magnesium Alloy''[4] and are thus outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as ''alloy'' magnesium).

The scope of this order excludes: (1) All forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an ''ASTM Specification for Magnesium Alloy''[5]; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[6]

The merchandise subject to this order is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review is provided in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice.[7] The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the order were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of the Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, the Department determines that revocation of the antidumping duty order on magnesium metal from the PRC would likely to lead to a continuation or recurrence of dumping, and that the magnitude of the dumping margin likely to prevail would be weighted-average margins up to 141.49 percent.

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: June 1, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13574 Filed 6–7–16; 8:45 am]

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[3] *See* Submissions from Petitioner to the Department, ''Five-Year (''Sunset'') Review Of The Antidumping Duty Order On Magnesium Metal From The People's Republic of China: US Magnesium's Substantive Response To The Notice Of Initiation,'' (''Substantive Response'') dated March 3, 2016.

[4] The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

[5] The material is already covered by existing antidumping orders. *See Notice of Antidumping Duty Orders: Pure Magnesium From the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation,* 60 FR 25691 (May 12, 1995); and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China,* 66 FR 57936 (November 19, 2001).

[6] This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. *See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China,* 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel,* 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation,* 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

[7] *See* the Department's memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Result of Expedited Second Sunset Reviews of the Antidumping Duty Orders on Certain Magnesium Metal From the People's Republic of China,'' dated concurrently with this notice.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–816]

Certain Oil Country Tubular Goods From the Republic of Turkey: Notice of Court Decision Not in Harmony With the Final Determination of the Less Than Fair Value Investigation and Notice of Amended Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 10, 2016, the United States Court of International Trade (CIT) sustained the *Final Remand Redetermination* [1] pertaining to the less-than-fair-value (LTFV) investigation of certain oil country tubular goods from the Republic of Turkey (OCTG from Turkey).[2] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the CIT's final judgment in this case is not in harmony with the *Final Determination,* and that the Department is amending the *Final Determination* with respect to Çayirova Boru Sanayi ve Ticaret A.Ş. and Yücel Boru Ithalat-Ihracat ve Pazarlama A.Ş. (collectively, Yücel). The period of investigation (POI) is July 1, 2012, through June 30, 2013.

DATES: Effective May 20, 2016.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3683 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2015, the CIT issued the *Remand Order,* directing the Department to reconsider the constructed value (CV) profit rate calculation used in the dumping margin analysis for Yücel, and granting the Department a voluntary remand to reconsider the duty drawback adjustment for Yücel.[3] On remand, the Department: (1) Recalculated Yücel's CV profit rate by replacing Yücel's CV profit and CV selling expenses with an aggregate figure representing the calculated CV profit and selling expenses of Borusan Manesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret A.S., the other mandatory respondent in this investigation, pursuant to section 773(e)(2)(B)(ii) of the Tariff Act of 1930, as amended (the Act); and (2) denied a duty drawback adjustment in its entirety for Yücel in its margin calculation.[4] As a result, the estimated weighted-average dumping margin for Yücel changed. On May 10, 2016, the Court upheld the *Final Remand Redetermination* in full.[5]

Timken Notice

In its decision in *Timken,* as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's May 10, 2016, final judgment affirming the *Final Remand Redetermination* constitutes a final decision of that court which is not in harmony with the *Final Determination.* This notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Determination

Because there is now a final court decision, the Department is amending the *Final Determination* with respect to Yücel's weighted-average dumping margin for the period July 1, 2012, through June 30, 2013, effective May 20, 2016. The revised weighted-average dumping margin for Çayirova Boru Sanayi ve Ticaret A.Ş. and Yücel Boru Ithalat-Ihracat ve Pazarlama A.Ş. (collectively, Yücel) is 13.59 percent.

Accordingly, the Department will continue the suspension of liquidation pending the expiration of the period of appeal or if appealed, pending a final and conclusive court decision.

Cash Deposit Requirements

Since the *Final Determination,* the Department has not established a new cash deposit rate for Yücel. As a result, in accordance with section 735(c)(1)(B) of the Act, the Department will instruct CBP to collect a cash deposit of 13.59 percent, adjusted where appropriate for export subsidies,[6] for entries of subject merchandise produced and/or exported by Yücel, effective May 20, 2016.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 735(d) and 777(i)(1) of the Act.

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13536 Filed 6–7–16; 8:45 am]

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[1] *See* Final Results of Redetermination Pursuant to Court Remand (*Final Remand Redetermination*) in *Maverick Tube Corporation et al* v. *United States,* Consol. Court No. 14–00244, Slip Op. 15–107 (Ct. Int'l Trade September 24, 2015) (*Remand Order*), *aff'd Maverick Tube Corporation et al* v. *United States,* Consol. Court No. 14–00244, Slip Op. 16–46, (Ct. Int'l Trade May 10, 2016). The *Final Remand Redetermination* is accessible at *http://enforcement.trade.gov/remands/15-107.pdf.*

[2] *See Certain Oil Country Tubular Goods From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, in Part,* 79 FR 41971 (July 18, 2014) (*Final Determination*).

[3] *See Remand Order,* Slip Op. 15–107 at 25–26, 30–38.

[4] *See Final Remand Redetermination* at 7–9, 24–28.

[5] *See Maverick,* Slip Op. 16–46 at 11–22.

[6] *See Final Determination,* 79 FR at 41972–73 (''In the final determination of the companion countervailing duty investigation on OCTG from Turkey, the Department determined that the all other companies benefitted from export subsidies. Pursuant to sections 735(c)(1) and 772(c)(1)(C) of the Act and 19 CFR 351.210(d), the Department will instruct CBP to require cash deposits equal to the weighted-average dumping margins indicated below, adjusted where appropriate for export subsidies''); *see also* Final Results of Remand Redetermination pursuant to the CIT orders in *Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. and Borusan Istikbal Ticaret* v. *United States,* 61 F. Supp. 3d 1306 (April 22, 2015) and *Maverick Tube Corporation* v. *United States,* Consol. Court No. 14–00229, Slip Op. 15–59 (June 15, 2015) (accessible at *http://enforcement.trade.gov/remands/15-59.pdf*), and *Oil Country Tubular Goods from Turkey: Notice of Court Decision Not in Harmony With the Final Determination of the Countervailing Duty Investigation;* 81 FR 12691, (March 10, 2016) (in which the Department calculated the ''All Others'' subsidy rate of 2.39 percent, including the countervailable subsidy rate for export subsidies in the amount of 0.22 percent). Yücel's cash-deposit rate will be calculated by subtracting the countervailable subsidy rate for export subsidies calculated in the countervailing duty final results of redetermination, 0.22 percent, from the weighted-average dumping margin rate of 13.59 percent, *i.e.,* 13.37 percent.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–032]

Certain Iron Mechanical Transfer Drive Components From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') preliminarily determines that certain iron mechanical transfer drive components (''IMTDC'') from the People's Republic of China (''PRC'') are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Tariff Act of 1930, as amended (the ''Act''). The period of investigation (''POI'') is April 1, 2015, through September 30, 2015. The estimated margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Krisha Hill or Jonathan Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4037 or (202) 482–3518, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on November 25, 2015.[1] On December 18, 2015, in accordance with section 777A(c)(2)(B) of the Act, the Department selected the two exporters accounting for the largest volume of IMTDC from the PRC during the POI (*i.e.,* NOK (Wuxi) Vibration Control China Co. Ltd. (''NVCC'') and Powermach Import & Export Co., Ltd. (Sichuan) (''Powermach'') as mandatory respondents. Nine other companies filed separate rate applications. On April 19, 2016, NVCC withdrew from participation as a mandatory respondent in the investigation.[2] Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary LTFV determination by 50 days until May 31, 2016.[3] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum that is dated concurrently with and hereby adopted by this notice.[4]

The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Department's Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical.

Tolling and Postponement of Deadline for Preliminary Determination

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the partial closure of the Federal Government due from Snowstorm ''Jonas'' from January 22, through January 27, 2016. Therefore, all deadlines in this segment of the proceeding have been extended by four business days.[5] If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.[6] In this case, the deadline is May 31, 2016.

Scope of the Investigation

The merchandise covered by this investigation is iron mechanical transfer drive components. The merchandise subject to this investigation is properly classified under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 8483.30.8090, 8483.50.6000, 8483.50.9040, 8483.50.9080, 8483.90.3000, 8483.90.8080. Covered merchandise may also enter under the following HTSUS subheadings: 7325.10.0080, 7325.99.1000, 7326.19.0010, 7326.19.0080, 8431.31.0040, 8431.31.0060, 8431.39.0010, 8431.39.0050, 8431.39.0070, 8431.39.0080, and 8483.50.4000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive. For a complete description of the scope of the investigation, see Appendix I to this notice.

Scope Comments

In accordance with the preamble to the Department's regulations,[7] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* ''scope'').[8] Certain interested parties commented on the scope of the investigation, as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record, and an accompanying discussion and analysis of all comments timely received, see the Department's Scope Memorandum issued concurrently with this notice.[9]

On March 30, 2016, Petitioner filed an amendment to the scope of the investigation to exclude certain finished torsional vibration dampers (''TVD'').[10] On April 8, 2016, the Department preliminarily excluded TVDs from the scope of the investigation.[11] On May 16, 2016, Petitioner filed an additional amendment to the scope to exclude certain light-duty, fixed- and variable-pitch, non-synchronous sheaves and certain bushings.[12] As discussed in the

[1] *See Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 73716 (November 25, 2016) (''*Initiation Notice*'').

[2] *See* Letter from NVCC to the Secretary of Commerce ''Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Withdrawal from Investigations,'' dated April 19, 2016 (''NVCC Non-Participation Letter'').

[3] *See Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 81 FR 12687 (March 10, 2016).

[4] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance ''Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Certain Iron Mechanical Transfer Drive Components from the People's Republic of China'' (''Preliminary Decision Memorandum'').

[5] *See* Memorandum for the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled ''Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm 'Jonas','' dated January 27, 2016.

[6] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[7] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

[8] *See Initiation Notice,* 80 FR at 73716.

[9] *See* Memorandum from Abdelali Elouaradia, Director, Office IV, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (''Scope Memorandum'').

[10] *See* Letter from Petitioner to the Secretary of Commerce, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Petitioner's Amendment to the Scope,'' dated March 30, 2016.

[11] *See* Memorandum from Abdelali Elouaradia, Director, Office IV, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Scope Comments Regarding Exclusion of Certain Finished Torsional Vibration Dampers,'' dated April 8, 2016.

[12] *See* Letter from TB Woods to the Department, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's

Continued

Scope Memorandum, the Department has preliminarily excluded certain light-duty, fixed- and variable-pitch, non-synchronous sheaves and certain bushings. For a complete description of the scope exclusion language, see the full scope at Appendix II to this notice as well as the Department's Scope Memorandum issued concurrently with this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. We calculated export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy, within the meaning of section 771(18) of the Act, we calculated normal value (NV) in accordance with section 773(c) of the Act. Further, in accordance with sections 776(a) and (b) of the Act, we preliminarily determined to apply facts otherwise available with an adverse inference in determining the weighted-average dumping margin for the PRC-wide entity and normal value, in part, for Powermach. For a full discussion of the Department's methodology, *see* the Preliminary Decision Memorandum.

Separate Rates

The Department received separate rate applications from nine companies, in addition to the two mandatory respondents. The Department has preliminarily granted separate-rate status to all of the companies which provided separate rates information, except NVCC, which withdrew from participation as a mandatory respondent in this investigation, Baldor Electric Canada (''Baldor''), and Yueqing Bethel Shaft Collar Manufacturing Co., Ltd. (''Yueqing Bethel''), which did not respond to the Department's request for supplemental information. The Department has treated these three companies as part of the PRC-wide entity. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[13] the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[14]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist during the period April 1, 2015, through September 30, 2015:

Exporter	Producer	Weighted-average margin (percent)
Powermach Import & Export Co., Ltd. (Sichuan)/Sichuan Dawn Precision Technology Co., Ltd./Sichuan Dawn Foundry Co., Ltd./Powermach Co., Ltd.	Powermach Import & Export Co., Ltd. (Sichuan)/Sichuan Dawn Precision Technology Co., Ltd./Sichuan Dawn Foundry Co., Ltd./Powermach Co., Ltd.	2.17
Fuqing Jiacheng Trading Corporation Limited	Fuzhou Min Yue Mechanical & Electrical Co., Ltd	2.17
Haiyang Jingweida Gearing Co., Ltd	Haiyang Jingweida Gearing Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Shijiazhuang CAPT Power Transmission Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Shanghai CPT Machinery Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Yueqing Bethel Shaft Collar Manufacturing Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Kezheng (Fuzhou) Mechanical & Electrical Manufacture Co., Ltd.	2.17
Hangzhou Powertrans Co., Ltd	Handan Hengfa Transmission Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Shijiazhuang Lihua Mechanical Manufacturing Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Xingtai Shengjia Machinery and Equipment Factory	2.17
Hangzhou Powertrans Co., Ltd	Shanghai Keli Machinery Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Jiangsu Zhengya Technology Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Taizhou Feiyang Metal Spinning Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Taizhou Pengxun Machinery Manufacturing Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Guangde Ronghua Machinery Manufacturing Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Qiuxian Hengxin Machinery Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Reach Machinery Enterprise	2.17
Hangzhou Powertrans Co., Ltd	Chengdu Novo Machinery Co., Ltd	2.17
Hangzhou Powertrans Co., Ltd	Chengdu Leno Machinery Co., Ltd	2.17
Shijiazhuang CAPT Power Transmission Co., Ltd	Shijiazhuang CAPT Power Transmission Co., Ltd	2.17
Xinguang Technology Co. Ltd of Sichuan Province	Sichuan Dawn Precision Technology Co., Ltd	2.17
Zhejiang Damon Industrial Equipment Co., Ltd	Zhejiang Damon Industrial Equipment Co., Ltd	2.17
Zhejiang Dongxing Auto Parts Co., Ltd	Zhejiang Dongxing Auto Parts Co., Ltd	2.17
PRC-Wide Entity		401.68

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of IMTDC from the PRC, as described in the ''Scope of the Investigation'' section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit[15] equal to the weighted-average amount by which NV exceeds U.S. price, adjusted where appropriate for export subsidies and estimated

Republic of China: Petitioner's Additional Amendment to the Scope,'' dated May 16, 2016.

[13] *See Initiation Notice* at 73720–21.

[14] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on the Department's Web site at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

[15] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

domestic subsidy pass-through,[16] as follows: (1) The cash deposit rate for the exporter/producer combinations listed in the table above will be the rate identified in the table; (2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension of liquidation instructions will remain in effect until further notice.

In LTFV investigations with a companion countervailing duty (CVD) investigation, we normally adjust antidumping duty cash deposit rates by the amount of export subsidies, where appropriate. In the companion CVD investigation, we preliminarily found that Powermach did not receive export subsidies. The rate for all-others companies in the CVD case was based on Powermach's rate, and thus the all-others companies did not receive an export subsidy rate. Therefore, no offset to Powermach's or the separate rate entities' cash deposit rates for export subsidies is necessary. Additionally, we likewise are not adjusting the cash deposit rate applicable to the PRC-wide entity for export subsidies.

Pursuant to 777A(f) of the Act, we are not adjusting preliminary cash deposit rates for estimated domestic subsidy pass-through. Based on the data on the record of this investigation, the Department does not find a general decrease in the U.S. average import price during the relevant period. Thus, the Department preliminarily finds that the requirement under section 777A(f)(1)(B) of the Act has not been met, and the Department did not make an adjustment under Section 777A(f) of the Act.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[17] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[18] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination by the Department, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination by the Department, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On May 5, 2016, pursuant to 19 CFR 351.210(b)(2)(ii), Powermach requested that the Department postpone its final determination, and requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[19] On May 16, 2016, Petitioner requested that the Department postpone the final determination in the event that the Department makes a negative preliminary determination.[20] Further, on May 17, 2016, NVCC also requested that the Department postpone its final determination and requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[21]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[22]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. Because the preliminary determination in this investigation is

[16] *See* sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[17] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[18] *See* 19 CFR 351.310(c).

[19] *See* Letter from Powermach to the Secretary of Commerce ''Certain Iron Mechanical Transfer Drive Components from the People's Republic of China: Request for Extension of Final Determination,'' dated May 5, 2016 (''Powermach Extension Request'').

[20] *See* Letter from Petitioner to the Secretary of Commerce ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Petitioner's Request to Extend the Final Determinations,'' dated May 16, 2016.

[21] *See* Letter from NVCC to the Secretary of Commerce ''Iron Mechanical Transfer Drive Components from the People's Republic of China: *Request to Postpone Final Determination,''* dated May 17, 2016.

[22] *See* 19 CFR 351.210(e).

affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of IMTDC from the PRC before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

List of Topics Discussed in the Preliminary Decision Memorandum:

Summary
Background
Selection of Respondents
Period of Investigation
Postponement of Final Determination and Extension of Provisional Measures
Scope Comments
Scope of the Investigation
Product Characteristics
Discussion of the Methodology
- Non-Market Economy Country
- Surrogate Country and Surrogate Value Comments
- Separate Rates
- Dumping Margin for the Separate Rate Companies
- Combination Rates
- The PRC-wide Entity
- Application of Facts Available and Adverse Inferences
- Application of Partial AFA
- Single Entity Treatment
- Date of Sale
- Fair Value Comparisons
- U.S. Price
- Normal Value
- Factor Valuation Methodology
- Verification
- Export Subsidy Adjustment

International Trade Commission Notification
Conclusion

Appendix I: Scope of the Investigation

The products covered by this investigation are iron mechanical transfer drive components, whether finished or unfinished (*i.e.,* blanks or castings). Subject iron mechanical transfer drive components are in the form of wheels or cylinders with a center bore hole that may have one or more grooves or teeth in their outer circumference that guide or mesh with a flat or ribbed belt or like device and are often referred to as sheaves, pulleys, flywheels, flat pulleys, idlers, conveyer pulleys, synchronous sheaves, and timing pulleys. The products covered by this investigation also include bushings, which are iron mechanical transfer drive components in the form of a cylinder and which fit into the bore holes of other mechanical transfer drive components to lock them into drive shafts by means of elements such as teeth, bolts, or screws.

Iron mechanical transfer drive components subject to this investigation are those not less than 4.00 inches (101 mm) in the maximum nominal outer diameter.

Unfinished iron mechanical transfer drive components (*i.e.,* blanks or castings) possess the approximate shape of the finished iron mechanical transfer drive component and have not yet been machined to final specification after the initial casting, forging or like operations. These machining processes may include cutting, punching, notching, boring, threading, mitering, or chamfering.

Subject merchandise includes iron mechanical transfer drive components as defined above that have been finished or machined in a third country, including but not limited to finishing/machining processes such as cutting, punching, notching, boring, threading, mitering, or chamfering, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the iron mechanical transfer drive components.

Subject iron mechanical transfer drive components are covered by the scope of the investigation regardless of width, design, or iron type (*e.g.,* gray, white, or ductile iron). Subject iron mechanical transfer drive components are covered by the scope of the investigation regardless of whether they have non-iron attachments or parts and regardless of whether they are entered with other mechanical transfer drive components or as part of a mechanical transfer drive assembly (which typically includes one or more of the iron mechanical transfer drive components identified above, and which may also include other parts such as a belt, coupling and/or shaft). When entered as a mechanical transfer drive assembly, only the iron components that meet the physical description of covered merchandise are covered merchandise, not the other components in the mechanical transfer drive assembly (*e.g.,* belt, coupling, shaft).

For purposes of this investigation, a covered product is of ''iron'' where the article has a carbon content of 1.7 percent by weight or above, regardless of the presence and amount of additional alloying elements.

Excluded from the scope are finished torsional vibration dampers (TVDs). A finished TVD is an engine component composed of three separate components: an inner ring, a rubber ring and an outer ring. The inner ring is an iron wheel or cylinder with a bore hole to fit a crank shaft which forms a seal to prevent leakage of oil from the engine. The rubber ring is a dampening medium between the inner and outer rings that effectively reduces the torsional vibration. The outer ring, which may be made of materials other than iron, may or may not have grooves in its outer circumference. To constitute a finished excluded TVD, the product must be composed of each of the three parts identified above and the three parts must be permanently affixed to one another such that both the inner ring and the outer ring are permanently affixed to the rubber ring. A finished TVD is excluded only if it meets the physical description provided above; merchandise that otherwise meets the description of the scope and does not satisfy the physical description of excluded finished TVDs above is still covered by the scope of the investigation regardless of end use or identification as a TVD.

The scope also excludes light-duty, fixed-pitch, non-synchronous sheaves (''excludable LDFPN sheaves'') with each of the following characteristics: Made from grey iron designated as ASTM (North American specification) Grade 30 or lower, GB/T (Chinese specification) Grade HT200 or lower, DIN (German specification) GG 20 or lower, or EN (European specification) EN–GJL 200 or lower; having no more than two grooves; having a maximum face width of no more than 1.75 inches, where the face width is the width of the part at its outside diameter; having a maximum outside diameter of not more than 18.75 inches; and having no teeth on the outside or datum diameter. Excludable LDFPN sheaves must also either have a maximum straight bore size of 1.6875 inches with a maximum hub diameter of 2.875 inches; or else have a tapered bore measuring 1.625 inches at the large end, a maximum hub diameter of 3.50 inches, a length through tapered bore of 1.0 inches, exactly two tapped holes that are 180 degrees apart, and a 2.0-inch bolt circle on the face of the hub. Excludable LDFPN sheaves more than 6.75 inches in outside diameter must also have an arm or spoke construction.[23] Further, excludable LDFPN sheaves must have a groove profile as indicated in the table below:

[23] An arm or spoke construction is where arms or spokes (typically 3 to 6) connect the outside diameter of the sheave with the hub of the sheave. This is in contrast to a block construction (in which the material between the hub and the outside diameter is solid with a uniform thickness that is the same thickness as the hub of the sheave) or a web construction (in which the material between the hub and the outside diameter is solid but is thinner than at the hub of the sheave).

Size (belt profile)	Outside diameter (inches)	Top width range of each groove (inches)	Maximum height (inches)	Angle
MA/AK (A, 3L, 4L)	≤5.45	0.484–0.499	0.531	34°
MA/AK (A, 3L, 4L)	>5.45 but ≤18.75	0.499–0.509	0.531	38°
MB/BK (A, B, 4L, 5L)	≤7.40	0.607–0.618	0.632	34°
MB/BK (A, B, 4L, 5L)	>7.40 but ≤18.75	0.620–0.631	0.635	38°

In addition to the above characteristics, excludable LDFPN sheaves must also have a maximum weight (pounds-per-piece) as follows: For excludable LDFPN sheaves with one groove and an outside diameter of greater than 4.0 inches but less than or equal to 8.0 inches, the maximum weight is 4.7 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 4.0 inches but less than or equal to 8.0 inches, the maximum weight is 8.5 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 8.0 inches but less than or equal to 12.0 inches, the maximum weight is 8.5 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 8.0 inches but less than or equal to 12.0 inches, the maximum weight is 15.0 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 12.0 inches but less than or equal to 15.0 inches, the maximum weight is 13.3 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 12.0 inches but less than or equal to 15.0 inches, the maximum weight is 17.5 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 15.0 inches but less than or equal to 18.75 inches, the maximum weight is 16.5 pounds; and for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 15.0 inches but less than or equal to 18.75 inches, the maximum weight is 26.5 pounds.

The scope also excludes light-duty, variable-pitch, non-synchronous sheaves with each of the following characteristics: Made from grey iron designated as ASTM (North American specification) Grade 30 or lower, GB/T (Chinese specification) Grade HT200 or lower, DIN (German specification) GG 20 or lower, or EN (European specification) EN–GJL 200 or lower; having no more than 2 grooves; having a maximum overall width of less than 2.25 inches with a single groove, or of 3.25 inches or less with two grooves; having a maximum outside diameter of not more than 7.5 inches; having a maximum bore size of 1.625 inches; having either one or two identical, internally-threaded (*i.e.,* with threads on the inside diameter), adjustable (rotating) flange(s) on an externally-threaded hub (*i.e.,* with threads on the outside diameter) that enable(s) the width (opening) of the groove to be changed; and having no teeth on the outside or datum diameter.

The scope also excludes certain IMTDC bushings. An IMTDC bushing is excluded only if it has a tapered angle of greater than or equal to 10 degrees, where the angle is measured between one outside tapered surface and the directly opposing outside tapered surface.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 8483.30.8090, 8483.50.6000, 8483.50.9040, 8483.50.9080, 8483.90.3000, 8483.90.8080. Covered merchandise may also enter under the following HTSUS subheadings: 7325.10.0080, 7325.99.1000, 7326.19.0010, 7326.19.0080, 8431.31.0040, 8431.31.0060, 8431.39.0010, 8431.39.0050, 8431.39.0070, 8431.39.0080, and 8483.50.4000. These HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

[FR Doc. 2016–13533 Filed 6–7–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–807]

Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) preliminarily determines that circular welded carbon-quality steel pipe (CWP) from the United Arab Emirates (UAE) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is October 1, 2014, through September 30, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Whitley Herndon or Dennis McClure, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6274 or (202) 482–5973, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated this investigation on November 17, 2015.[1] For a complete description of the events that followed the initiation of this investigation, *see* the memorandum that is dated concurrently with this determination and hereby adopted by this notice.[2] There are two mandatory respondents participating in this investigation, Ajmal Steel Tubes & Pipes Ind. L.L.C. (Ajmal Steel) and Universal Tube and Plastic Industries, LLC—Jebel Ali Branch, Universal Tube and Pipe Industries, and KHK Scaffolding and Framework LLC (collectively, Universal). The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is CWP from the UAE.

[1] *See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 73708 (November 25, 2015).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled ''Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates'' (Preliminary Decision Memorandum), dated concurrently with this notice.

Interested parties filed comments regarding the scope of the investigation, which resulted in one clarification to the scope language and are addressed, in detail, in the Department's Preliminary Scope Decision Memorandum.[3] For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in Appendix I of this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export price and, where appropriate, constructed export price are calculated in accordance with section 772 of the Act and normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

All-Others Rate

Consistent with sections 733(d)(1)(A)(ii) and 735(c)(5) of the Act, the Department also calculated an estimated all-others rate. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, we based our calculation of the all-others rate on the weighted-average of the margins calculated for Ajmal and Universal using publicly ranged data. We cannot calculate a weighted-average margin based on the actual data reported by the respondents because doing so may potentially reveal their business proprietary information. Accordingly, we find this rate, which is based on publicly ranged data that respondents reported to be the best proxy of the weighted-average margin based on these respondents' actual data. For further discussion of this calculation, *see* the memorandum entitled ''Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Calculation of the Preliminary Margin for All Other Companies,'' dated concurrently with this notice.

Preliminary Determination [4]

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/ manufacturer	Weighted-average dumping margin (percent)
Ajmal Steel Tubes & Pipes Ind. L.L.C	6.10
Universal Tube and Plastic Industries, LLC—Jebel Ali Branch, Universal Tube and Pipe Industries, and KHK Scaffolding and Framework LLC	9.25
All Others	7.86

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from the UAE, as described in Appendix I of this notice, for all companies, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require cash deposits [5] equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated in the chart above, as follows: (1) The rate for the mandatory respondents listed above will be the respondent-specific rates we determined in this preliminary determination; (2) if the exporter is not a mandatory respondent identified above, but the producer is, the rate will be the specific rate established for the producer of the subject merchandise; and (3) the rate for all other producers or exporters will be the all-others rate. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the announcement of this preliminary determination in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Public Comment

Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments concerning scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days from the publication of this notice, and rebuttal briefs, limited to scope issues raised in the case briefs, may be submitted no later than five days after the deadline date for case briefs. Scope-related briefs/comments must be filed on the record of this investigation and the concurrent antidumping and countervailing duty CWP investigations. Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to non-scope issues raised in the case briefs, may be submitted no later than five days after the deadline date for case briefs.[6] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and

[3] *See* Department Memorandum, ''Antidumping Duty Investigations of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam and Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe form Pakistan; Scope Comments Decision Memorandum for the Preliminary Determination,'' April 1, 2016 (Preliminary Scope Decision Memorandum).

[4] On March 14, 2016, the Department postponed the preliminary determination in this investigation until May 31, 2016; *see Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 81 FR 15039 (March 21, 2016).

[5] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

[6] *See* 19 CFR 351.309.

date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Ajmal and Universal, the respondents, requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.,* to 135 days after publication of the preliminary determination), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[7] [8]

In accordance with sections 735(a)(2)(A) and 733(d) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; (3) the requesting exporters have requested extension of provisional measures to a period not more than six months; and (4) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register** and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will issue our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[9]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (O.D.) not more than nominal 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.,* black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.,* American Society for Testing and Materials International (ASTM), proprietary, or other), generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which:

(a) iron predominates, by weight, over each of the other contained elements;

(b) the carbon content is 2 percent or less, by weight; and

(c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium; or
(xiv) 0.15 percent of zirconium.

Covered products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (API) API–5L specification, may also be covered by the scope of these investigations. In particular, such multi-stenciled merchandise is covered when it meets the physical description set forth above, and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted (*e.g.,* polyester coated) surface finish; or has a threaded and/or coupled end finish.

Standard pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications.

Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications.

Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Products that meet the physical description set forth above but are made to the following nominal outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, are included despite being certified to ASTM mechanical tubing specifications:

O.D. in inches (nominal)	Wall thickness in inches (nominal)	Gage
1.315	0.035	20
1.315	0.047	18
1.315	0.055	17
1.315	0.065	16
1.315	0.072	15
1.315	0.083	14
1.315	0.095	13
1.660	0.055	17
1.660	0.065	16
1.660	0.083	14
1.660	0.095	13
1.660	0.109	12
1.900	0.047	18
1.900	0.055	17
1.900	0.065	16
1.900	0.072	15
1.900	0.095	13
1.900	0.109	12
2.375	0.047	18
2.375	0.055	17
2.375	0.065	16
2.375	0.072	15
2.375	0.095	13
2.375	0.109	12
2.375	0.120	11
2.875	0.109	12
2.875	0.165	8
3.500	0.109	12
3.500	0.165	8
4.000	0.148	9
4.000	0.165	8
4.500	0.203	7

The scope of this investigation does not include:

(a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining

[7] *See* Letter from Ajmal entitled, ''Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Request to Postpone the Final Determination,'' Amendment to Request to Postpone Final Determination,'' dated May 5, 2016.

[8] *See* Letters from Universal entitled, ''Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates, Case No. A–520–807: Request to Postpone Final Determination'' and ''Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates, Case No. A–520–807: Amendment to Request to Postpone Final Determination,'' dated May 5, 2016.

[9] *See* 19 CFR 351.210(b)(2) and (e).

furnaces and feedwater heaters, whether or not cold drawn, which are defined by standards such as ASTM A178 or ASTM A192;

(b) finished electrical conduit, *i.e.,* Electrical Rigid Steel Conduit (also known as Electrical Rigid Metal Conduit and Electrical Rigid Metal Steel Conduit), Finished Electrical Metallic Tubing, and Electrical Intermediate Metal Conduit, which are defined by specifications such as American National Standard (ANSI) C80.1–2005, ANSI C80.3–2005, or ANSI C80.6–2005, and Underwriters Laboratories Inc. (UL) UL–6, UL–797, or UL–1242;

(c) finished scaffolding, *i.e.,* component parts of final, finished scaffolding that enter the United States unassembled as a ''kit.'' A kit is understood to mean a packaged combination of component parts that contains, at the time of importation, all of the necessary component parts to fully assemble final, finished scaffolding;

(d) tube and pipe hollows for redrawing;

(e) oil country tubular goods produced to API specifications;

(f) line pipe produced to only API specifications, such as API 5L, and not multi-stenciled; and

(g) mechanical tubing, whether or not cold-drawn, other than what is included in the above paragraphs.

The products subject to this investigation are currently classifiable in Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5030, 7306.50.5050, and 7306.50.5070. The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Summary
2. Background
3. Period of Investigation
4. Postponement of Final Determination and Extension of Provisional Measures
5. Scope Comments
6. Discussion of the Methodology
   a. Determination of the Comparison Method
   b. Results of the Differential Pricing Analysis
7. Date of Sale
8. Product Comparisons
9. Export Price/Constructed Export Price
10. Normal Value
   a. Home Market Viability
   b. Affiliated Party Transactionsand Arm's Length Test
   c. Level of Trade
   d. Cost of Production (COP) Analysis
   1. Cost Averaging Methodology
   i. Significance of Cost Changes
   ii. Linkage Between Sales and Cost Information
   2. Calculation of COP
   3. Test of Comparison Market Sales Prices
   4. Results of the COP Test
   e. Calculation of NV Based on Comparison-Market Prices
11. Currency Conversion
12. Conclusion

[FR Doc. 2016–13528 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–820]

Circular Welded Carbon-Quality Steel Pipe From the Socialist Republic of Vietnam: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) preliminarily determines that circular welded carbon-quality steel pipe (CWP) from the Socialist Republic of Vietnam (Vietnam) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is April 1, 2015, through September 30, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0196 or (202) 482–4261, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department initiated this investigation on November 17, 2015.[1] For a complete description of the events that followed the initiation of this investigation, *see* the memorandum that is dated concurrently with this determination and hereby adopted by this notice.[2] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is CWP from Vietnam. Interested parties filed comments regarding the scope of the investigation, which resulted in one clarification to the scope language and are addressed, in detail, in the Department's Preliminary Scope Decision Memorandum.[3] For a full description of the scope of this investigation, *see* the ''Scope of the Investigation,'' in Appendix II of this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Because Vietnam is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value (NV) in accordance with section 773(c) of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,* the Department stated that it would

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[1] *See Circular Welded Carbon-Quality Steel Pipe From the Sultanate of Oman, Pakistan, the Philippines, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 73708 (November 25, 2015) (*Initiation Notice*).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled ''Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Circular Welded Carbon-Quality Steel Pipe From the Socialist Republic of Vietnam'' (Preliminary Decision Memorandum), dated concurrently with this notice.

[3] *See* Department Memorandum, ''Antidumping Duty Investigations of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam and Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe form Pakistan; Scope Comments Decision Memorandum for the Preliminary Determination,'' dated concurrently with and hereby adopted by this notice (Preliminary Scope Decision Memorandum).

calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[4]

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter	Producer	Weighted-average dumping margin (percent)
SeAH Steel VINA Corporation	SeAH Steel VINA Corporation	0.00
Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd	Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd	* 1.19
Hoa Phat Steel Pipe Co	Hoa Phat Steel Pipe Co	* 0.38
Vietnam-Wide Entity		113.18

* *de minimis.*

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of CWP from Vietnam, as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** except for those produced and exported by Hoa Phat Steel Pipe Co. (Hoa Phat), SeAH Steel VINA Corporation (SeAH), and Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd. (Hongyuan). Because the estimated weighted-average dumping margins for Hoa Phat, SeAH, and Hongyuan are zero or *de minimis*, we are not directing CBP to suspend liquidation of entries of the merchandise they produced and exported.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit[5] equal to the weighted-average amount by which the NV exceeds U.S. price as follows: (1) The cash-deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of Vietnam exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash-deposit rate established for the Vietnam-wide entity, 113.18 percent; and (3) for all non-Vietnam exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash-deposit rate applicable to the Vietnam exporter/producer combination that supplied that non-Vietnam exporter. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We will disclose the calculations performed to interested parties in this proceeding within five days of the announcement of this preliminary determination in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i) of the Act, we intend to verify the information relied upon prior to making our final determination.

Public Comment

Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments concerning scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days from the publication of this notice, and rebuttal briefs, limited to scope issue raised in the case briefs, may be submitted no later than five days after the deadline date for scope case briefs. Scope-related briefs/comments must be filed on the record of this investigation and the concurrent antidumping and countervailing duty CWP investigations.

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to non-scope issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[6] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. 19

[4] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on the Department's Web site at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

[5] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

[6] *See* 19 CFR 351.309.

CFR 351.210(e)(2) requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Respondents Hongyuan and SeAH, both requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.*, to 135 days after publication of the preliminary determination), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[7]

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; (3) the requesting exporters have requested extension of provisional measures to a period not more than six months; and (4) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register** and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will issue our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[8]

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

[7] *See* Letter from Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd, ''Circular Welded Carbon-Quality Steel Pipe from Vietnam; Request for Extension of Time for the Final Determination,'' dated April 28, 2016 and letter from SeAH Steel VINA Corporation ''Circular Welded Carbon-Quality Steel Pipe from Vietnam; Request for Extension of Deadline for the Department's Final Determination,'' dated May 2, 2016.

[8] *See* 19 CFR 351.210(b)(2) and (e).

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Period of Investigation
4. Postponement of Final Determination and Extension of Provisional Measures
5. Scope Comments
6. Discussion of the Methodology
   a. Non-Market Economy Country
   b. Surrogate Country and Surrogate Values Comments
   c. Separate Rates
   d. The Vietnam-Wide Entity
   e. Date of Sale
   f. Comparisons to Fair Value
7. Currency Conversion
8. Disclosure and Public Comment
9. Verification
10. Conclusion

Appendix II—Scope of the Investigation

This investigation covers welded carbon-quality steel pipes and tube, of circular cross-section, with an outside diameter (O.D.) not more than nominal 16 inches (406.4 mm), regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, American Society for Testing and Materials International (ASTM), proprietary, or other), generally known as standard pipe, fence pipe and tube, sprinkler pipe, and structural pipe (although subject product may also be referred to as mechanical tubing). Specifically, the term ''carbon quality'' includes products in which:

(a) Iron predominates, by weight, over each of the other contained elements;

(b) the carbon content is 2 percent or less, by weight; and

(c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium; or
(xiv) 0.15 percent of zirconium.

Covered products are generally made to standard O.D. and wall thickness combinations. Pipe multi-stenciled to a standard and/or structural specification and to other specifications, such as American Petroleum Institute (API) API–5L specification, may also be covered by the scope of these investigations. In particular, such multi-stenciled merchandise is covered when it meets the physical description set forth above, and also has one or more of the following characteristics: Is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted (*e.g.*, polyester coated) surface finish; or has a threaded and/or coupled end finish.

Standard pipe is ordinarily made to ASTM specifications A53, A135, and A795, but can also be made to other specifications. Structural pipe is made primarily to ASTM specifications A252 and A500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications.

Sprinkler pipe is designed for sprinkler fire suppression systems and may be made to industry specifications such as ASTM A53 or to proprietary specifications.

Fence tubing is included in the scope regardless of certification to a specification listed in the exclusions below, and can also be made to the ASTM A513 specification. Products that meet the physical description set forth above but are made to the following nominal outside diameter and wall thickness combinations, which are recognized by the industry as typical for fence tubing, are included despite being certified to ASTM mechanical tubing specifications:

O.D. in inches (nominal)	Wall thickness in inches (nominal)	Gage
1.315	0.035	20
1.315	0.047	18
1.315	0.055	17
1.315	0.065	16
1.315	0.072	15
1.315	0.083	14
1.315	0.095	13
1.660	0.055	17
1.660	0.065	16
1.660	0.083	14
1.660	0.095	13
1.660	0.109	12
1.900	0.047	18
1.900	0.055	17
1.900	0.065	16
1.900	0.072	15
1.900	0.095	13
1.900	0.109	12
2.375	0.047	18
2.375	0.055	17
2.375	0.065	16
2.375	0.072	15
2.375	0.095	13
2.375	0.109	12
2.375	0.120	11
2.875	0.109	12
2.875	0.165	8
3.500	0.109	12
3.500	0.165	8
4.000	0.148	9
4.000	0.165	8
4.500	0.203	7

The scope of this investigation does not include:

(a) Pipe suitable for use in boilers, superheaters, heat exchangers, refining furnaces and feedwater heaters, whether or not cold drawn, which are defined by standards such as ASTM A178 or ASTM A192;

(b) finished electrical conduit, *i.e.*, Electrical Rigid Steel Conduit (also known as

Electrical Rigid Metal Conduit and Electrical Rigid Metal Steel Conduit), Finished Electrical Metallic Tubing, and Electrical Intermediate Metal Conduit, which are defined by specifications such as American National Standard (ANSI) C80.1–2005, ANSI C80.3–2005, or ANSI C80.6–2005, and Underwriters Laboratories Inc. (UL) UL–6, UL–797, or UL–1242;

(c) finished scaffolding, *i.e.*, component parts of final, finished scaffolding that enter the United States unassembled as a ''kit.'' A kit is understood to mean a packaged combination of component parts that contains, at the time of importation, all of the necessary component parts to fully assemble final, finished scaffolding;

(d) tube and pipe hollows for redrawing;

(e) oil country tubular goods produced to API specifications;

(f) line pipe produced to only API specifications, such as API 5L, and not multi-stenciled; and

(g) mechanical tubing, whether or not cold-drawn, other than what is included in the above paragraphs.

The products subject to this investigation are currently classifiable in Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 7306.19.1010, 7306.19.1050, 7306.19.5110, 7306.19.5150, 7306.30.1000, 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.5030, 7306.50.5050, and 7306.50.5070. The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

[FR Doc. 2016–13484 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–856]

Certain Iron Mechanical Transfer Drive Components From Canada: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') preliminarily determines that certain iron mechanical transfer drive components (''iron transfer drive components'') from Canada are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733(b) of the Tariff Act of 1930, as amended (the ''Act''). The period of investigation is October 1, 2014 through September 30, 2015. The estimated dumping margins of sales at LTFV are listed in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Robert Bolling, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0193 or (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 2015, the Department received an antidumping duty (''AD'') petition concerning imports of iron transfer drive components from Canada, filed in proper form on behalf of TB Wood's Incorporated (''TB Woods'') (''Petitioner'').[1] The Department initiated this investigation on November 17, 2015.[2] Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary LTFV determination by 50 days until May 31, 2016.[3]

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with and hereby adopted by this notice.[4] The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Department's Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Tolling and Postponement of Deadline for Preliminary Determination

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the partial closure of the Federal Government due from Snowstorm ''Jonas'' from January 22, through January 27, 2016. Therefore, all deadlines in this segment of the proceeding have been extended by four business days.[5] If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.[6] In this case, the deadline is May 31, 2016.

Scope of the Investigation

The merchandise covered by this investigation is iron mechanical transfer drive components. The merchandise subject to this investigation is properly classified under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 8483.30.8090, 8483.50.6000, 8483.50.9040, 8483.50.9080, 8483.90.3000, 8483.90.8080. Covered merchandise may also enter under the following HTSUS subheadings: 7325.10.0080, 7325.99.1000, 7326.19.0010, 7326.19.0080, 8431.31.0040, 8431.31.0060, 8431.39.0010, 8431.39.0050, 8431.39.0070, 8431.39.0080, and 8483.50.4000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive. For a complete description of the scope of the investigation, see Appendix II to this notice.

Scope Comments

In accordance with the preamble to the Department's regulations,[7] the *Initiation Notice* set aside a period of time for parties to raise issues regarding

[1] *See* the Petition for the Imposition of Antidumping Duties on Imports of Certain Iron Mechanical Transfer Drive Components from Canada, dated October 28, 2015 (the ''Petition'').

[2] *See Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 73716 (November 25, 2016) (''*Initiation Notice*'').

[3] *See Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 81 FR 12687 (March 10, 2016).

[4] *See* Memoranda from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled: ''Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Certain Iron Mechanical Transfer Drive Components from Canada'' (Preliminary Decision Memorandum).

[5] *See* Memorandum for the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled ''Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm 'Jonas','' dated January 27, 2016.

[6] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[7] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997).

product coverage (*i.e.,* ''scope'').[8] Certain interested parties commented on the scope of the investigation, as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record, and an accompanying discussion and analysis of all comments timely received, see the Department's Scope Memorandum issued concurrently with this notice.[9]

On March 30, 2016, Petitioner filed an amendment to the scope of the investigation to exclude certain finished torsional vibration dampers (''TVD'').[10] On April 8, 2016, the Department preliminarily excluded TVDs from the scope of the investigation.[11] On May 16, 2016, Petitioner filed an additional amendment to the scope to exclude certain light-duty, fixed- and variable-pitch, non-synchronous sheaves and certain bushings.[12] As discussed in the Scope Memorandum, the Department has preliminarily excluded certain light-duty, fixed- and variable-pitch, non-synchronous sheaves and certain bushings. For a complete description of the scope exclusion language, see the full scope at Appendix II to this notice as well as the Department's Scope Memorandum issued concurrently with this notice.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. The sole selected mandatory respondent, Baldor Electric Company Canada (''Baldor''), failed to participate in this investigation and to respond to the Department's Sections A, B, C, and D supplemental questionnaires.[13] As a result, we preliminarily determined to apply adverse facts available (''AFA'') to Baldor, in accordance with section 776 of the Act and 19 CFR 351.308. For a full discussion of the rationale underlying our preliminary determination, as well as a description of the methodology used, see the Preliminary Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated ''all-others'' rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated dumping margin for all other producers or exporters.

We determined the dumping margin for mandatory respondent Baldor under section 776 of the Act. Consequently, the only available dumping margins for this preliminary determination are found in the petition and are margins upon which we initiated. Pursuant to section 735(c)(5)(B) of the Act, the Department's practice under these circumstances has been to calculate the ''all-others'' rate as a simple average of these margins from the petition.[14] For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memoranda.

Preliminary Determination

The preliminary dumping margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
Baldor Electric Company Canada	191.34
All-Others	100.47

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will instruct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of iron transfer drive components from Canada as described in the ''Scope of Investigation'' section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require cash deposits[15] equal to the dumping margins, as indicated in the chart above, as follows: (1) The rate for the mandatory respondent listed above will be the respondent-specific rate we determined in this preliminary determination; (2) if the exporter is not a mandatory respondent identified above, but the producer is, the rate will be the specific rate established for the producer of the subject merchandise; and (3) the rate for all other producers or exporters will be the ''all-others'' rate. This suspension of liquidation instruction will remain in effect until further notice.

Disclosure

Normally, the Department discloses to interested parties the calculations performed in connection with a preliminary determination within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because the Department preliminarily applied AFA to mandatory respondent Baldor in this investigation in accordance with section 776 of the Act, there are no calculations to disclose.

Public Comment

Interested parties are invited to comment on this preliminary

[8] *See Initiation Notice,* 80 FR at 73716.

[9] *See* Memorandum from Abdelali Elouaradia, Director, Office IV, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (''Scope Memorandum'').

[10] *See* Letter from Petitioner to the Secretary of Commerce, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Petitioner's Amendment to the Scope,'' dated March 30, 2016.

[11] *See* Memorandum from Abdelali Elouaradia, Director, Office IV, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Scope Comments Regarding Exclusion of Certain Finished Torsional Vibration Dampers,'' dated April 8, 2016.

[12] *See* Letter from TB Woods to the Department, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada and the People's Republic of China: Petitioner's Additional Amendment to the Scope,'' dated May 16, 2016.

[13] *See* letter from Baldor to the Department, re: Certain Iron Mechanical Transfer Drive Components from Canada—Baldor Canada's Decision Not to Respond to Department's Questionnaires, dated April 19, 2016 (No Response Letter).

[14] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany,* 73 FR 38986, 38987 (July 8, 2008), and accompanying Issues and Decision Memorandum at Comment 2; *see also Notice of Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets From Taiwan,* 73 FR 39673, 39674 (July 10, 2008); *Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances,* 78 FR 79670, 79671 (December 31, 2013), unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances,* 79 FR 14476, 14477 (March 14, 2014).

[15] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042 (October 3, 2011).

determination. Interested parties may submit case briefs to the Department no later than 30 days after the date of publication of the preliminary determination.[16] Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs.[17] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All documents must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by ACCESS by 5 p.m. Eastern Standard Time on the date the document is due.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request for a hearing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. An electronically-filed request for a hearing must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[18] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date and time for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[19] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

Because Baldor failed to provide information requested by the Department and the Department preliminarily determines Baldor to have been uncooperative, verification will not be conducted.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination by the Department, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On May 16, 2016, pursuant to 19 CFR 351.210(b)(2)(ii), Baldor requested that the Department postpone its final determination, and requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.[20] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[21]

International Trade Commission (''ITC'') Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memoranda

1. Summary
2. Background
3. Period of Investigation
4. Postponement of Final Determination and Extension of Provisional Measures
5. Scope of the Investigation
6. Scope Comments
7. Product Comparisons
8. Respondent Selection
9. Application of Facts Available and Use of Adverse Inference
10. Selection of the AFA Rate
11. Corroboration of Secondary Information
12. All-Others Rate
13. Conclusion

Appendix II—Scope of the Investigation

The products covered by this investigation are iron mechanical transfer drive components, whether finished or unfinished (*i.e.,* blanks or castings). Subject iron mechanical transfer drive components are in the form of wheels or cylinders with a center bore hole that may have one or more grooves or teeth in their outer circumference that guide or mesh with a flat or ribbed belt or like device and are often referred to as sheaves, pulleys, flywheels, flat pulleys, idlers, conveyer pulleys, synchronous sheaves, and timing pulleys. The products covered by this investigation also include bushings, which are iron mechanical transfer drive components in the form of a cylinder and which fit into the bore holes of other mechanical transfer drive components to lock them into drive shafts by means of elements such as teeth, bolts, or screws.

Iron mechanical transfer drive components subject to this investigation are those not less than 4.00 inches (101 mm) in the maximum nominal outer diameter.

Unfinished iron mechanical transfer drive components (*i.e.,* blanks or castings) possess the approximate shape of the finished iron mechanical transfer drive component and have not yet been machined to final specification after the initial casting, forging or like operations. These machining processes may include cutting, punching, notching, boring, threading, mitering, or chamfering.

Subject merchandise includes iron mechanical transfer drive components as defined above that have been finished or machined in a third country, including but not limited to finishing/machining processes such as cutting, punching, notching, boring, threading, mitering, or chamfering, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the iron mechanical transfer drive components.

Subject iron mechanical transfer drive components are covered by the scope of the investigation regardless of width, design, or iron type (*e.g.,* gray, white, or ductile iron). Subject iron mechanical transfer drive

[16] *See* 19 CFR 351.309(c)(1)(i).

[17] *See* 19 CFR 351.309(d)(1) and 19 CFR 351.309(d)(2).

[18] *See* 19 CFR 351.310(c).

[19] *Id.*

[20] *See* letter from Baldor, entitled ''Certain Iron Mechanical Transfer Drive Components from Canada—Baldor Canada's Request to Postpone Final Determination,'' dated May 16, 2016.

[21] *See* 19 CFR 351.210(e).

components are covered by the scope of the investigation regardless of whether they have non-iron attachments or parts and regardless of whether they are entered with other mechanical transfer drive components or as part of a mechanical transfer drive assembly (which typically includes one or more of the iron mechanical transfer drive components identified above, and which may also include other parts such as a belt, coupling and/or shaft). When entered as a mechanical transfer drive assembly, only the iron components that meet the physical description of covered merchandise are covered merchandise, not the other components in the mechanical transfer drive assembly (*e.g.,* belt, coupling, shaft).

For purposes of this investigation, a covered product is of ''iron'' where the article has a carbon content of 1.7 percent by weight or above, regardless of the presence and amount of additional alloying elements.

Excluded from the scope are finished torsional vibration dampers (TVDs). A finished TVD is an engine component composed of three separate components: An inner ring, a rubber ring and an outer ring. The inner ring is an iron wheel or cylinder with a bore hole to fit a crank shaft which forms a seal to prevent leakage of oil from the engine. The rubber ring is a dampening medium between the inner and outer rings that effectively reduces the torsional vibration. The outer ring, which may be made of materials other than iron, may or may not have grooves in its outer circumference. To constitute a finished excluded TVD, the product must be composed of each of the three parts identified above and the three parts must be permanently affixed to one another such that both the inner ring and the outer ring are permanently affixed to the rubber ring. A finished TVD is excluded only if it meets the physical description provided above; merchandise that otherwise meets the description of the scope and does not satisfy the physical description of excluded finished TVDs above is still covered by the scope of the investigation regardless of end use or identification as a TVD.

The scope also excludes light-duty, fixed-pitch, non-synchronous sheaves (''excludable LDFPN sheaves'') with each of the following characteristics: Made from grey iron designated as ASTM (North American specification) Grade 30 or lower, GB/T (Chinese specification) Grade HT200 or lower, DIN (German specification) GG 20 or lower, or EN (European specification) EN–GJL 200 or lower; having no more than two grooves; having a maximum face width of no more than 1.75 inches, where the face width is the width of the part at its outside diameter; having a maximum outside diameter of not more than 18.75 inches; and having no teeth on the outside or datum diameter. Excludable LDFPN sheaves must also either have a maximum straight bore size of 1.6875 inches with a maximum hub diameter of 2.875 inches; or else have a tapered bore measuring 1.625 inches at the large end, a maximum hub diameter of 3.50 inches, a length through tapered bore of 1.0 inches, exactly two tapped holes that are 180 degrees apart, and a 2.0- inch bolt circle on the face of the hub. Excludable LDFPN sheaves more than 6.75 inches in outside diameter must also have an arm or spoke construction.[22] Further, excludable LDFPN sheaves must have a groove profile as indicated in the table below:

Size (belt profile)	Outside diameter	Top width range of each groove (in.)	Maximum height (in.)	Angle
MA/AK (A, 3L, 4L)	≤5.45 in	0.484–0.499	0.531	34°
MA/AK (A, 3L, 4L)	>5.45 in. but ≤18.75 in	0.499–0.509	0.531	38°
MB/BK (A, B, 4L, 5L)	≤7.40 in	0.607–0.618	0.632	34°
MB/BK (A, B, 4L, 5L)	>7.40 in. but ≤18.75 in	0.620–0.631	0.635	38°

In addition to the above characteristics, excludable LDFPN sheaves must also have a maximum weight (pounds-per-piece) as follows: For excludable LDFPN sheaves with one groove and an outside diameter of greater than 4.0 inches but less than or equal to 8.0 inches, the maximum weight is 4.7 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 4.0 inches but less than or equal to 8.0 inches, the maximum weight is 8.5 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 8.0 inches but less than or equal to 12.0 inches, the maximum weight is 8.5 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 8.0 inches but less than or equal to 12.0 inches, the maximum weight is 15.0 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 12.0 inches but less than or equal to 15.0 inches, the maximum weight is 13.3 pounds; for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 12.0 inches but less than or equal to 15.0 inches, the maximum weight is 17.5 pounds; for excludable LDFPN sheaves with one groove and an outside diameter of greater than 15.0 inches but less than or equal to 18.75 inches, the maximum weight is 16.5 pounds; and for excludable LDFPN sheaves with two grooves and an outside diameter of greater than 15.0 inches but less than or equal to 18.75 inches, the maximum weight is 26.5 pounds.

The scope also excludes light-duty, variable-pitch, non-synchronous sheaves with each of the following characteristics: Made from grey iron designated as ASTM (North American specification) Grade 30 or lower, GB/T (Chinese specification) Grade HT200 or lower, DIN (German specification) GG 20 or lower, or EN (European specification) EN–GJL 200 or lower; having no more than 2 grooves; having a maximum overall width of less than 2.25 inches with a single groove, or of 3.25 inches or less with two grooves; having a maximum outside diameter of not more than 7.5 inches; having a maximum bore size of 1.625 inches; having either one or two identical, internally-threaded *(i.e.,* with threads on the inside diameter), adjustable (rotating) flange(s) on an externally-threaded hub *(i.e.,* with threads on the outside diameter) that enable(s) the width (opening) of the groove to be changed; and having no teeth on the outside or datum diameter.

The scope also excludes certain IMTDC bushings. An IMTDC bushing is excluded only if it has a tapered angle of greater than or equal to 10 degrees, where the angle is measured between one outside tapered surface and the directly opposing outside tapered surface.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 8483.30.8090, 8483.50.6000, 8483.50.9040, 8483.50.9080, 8483.90.3000, 8483.90.8080. Covered merchandise may also enter under the following HTSUS subheadings: 7325.10.0080, 7325.99.1000, 7326.19.0010, 7326.19.0080, 8431.31.0040, 8431.31.0060, 8431.39.0010, 8431.39.0050, 8431.39.0070, 8431.39.0080, and 8483.50.4000. These HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.

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[22] An arm or spoke construction is where arms or spokes (typically 3 to 6) connect the outside diameter of the sheave with the hub of the sheave. This is in contrast to a block construction (in which the material between the hub and the outside diameter is solid with a uniform thickness that is the same thickness as the hub of the sheave) or a web construction (in which the material between the hub and the outside diameter is solid but is thinner than at the hub of the sheave).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–821]

Polyethylene Retail Carrier Bags From Thailand: Final Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On April 5, 2016 the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Thailand.[1] The period of review (POR) is August 1, 2014, through July 31, 2015. The review covers one producer/exporter of the subject merchandise, K. International Packaging Co., Ltd. (K. International Packaging). We invited parties to comment on the *Preliminarily Results.* None were received. Accordingly, for the final results, we continue to find that K. International Packaging made sales of subject merchandise at less than normal value.

DATES: Effective June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Andre Gziryan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2201.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 2016, the Department published the *Preliminary Results* of the administrative review. The Department gave interested parties an opportunity to comment on the *Preliminary Results.* None were received. The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to this order is PRCBs, which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

As a result of changes to the Harmonized Tariff Schedule of the United States (HTSUS), imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the HTSUS. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Final Results of Review

The Department made no changes to the *Preliminary Results.* As a result of this review, we determine that a weighted-average dumping margin of 122.88 percent exists for K. International Packaging for the period August 1, 2014, through July 31, 2015.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to apply an *ad valorem* assessment rate of 122.88 percent to all entries of subject merchandise during the POR which were produced and/or exported by K. International Packaging. We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for K. International Packaging will be 122.88 percent, the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash deposit rate will be 4.69 percent.[2] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

[1] *See Polyethylene Retail Carrier Bags From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 21536 (April 12, 2016) (Preliminary Results).

[2] *See Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Polyethylene Retail Carrier Bags From Thailand,* 75 FR 48940 (August 12, 2010).

Dated: May 31, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–13468 Filed 6–7–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Coastal Mapping Strategy 1.0: Coastal Lidar Elevation for a 3D Nation Draft for Review

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of Availability, Request for Comments; Webinar.

SUMMARY: The National Ocean Service of the National Oceanic and Atmospheric Administration (NOAA) publishes this notice on behalf of the Subcommittee on Ocean Science and Technology's Interagency Working Group on Ocean and Coastal Mapping (IWG–OCM) to announce a 60-day public comment period on the draft National Coastal Mapping Strategy (NCMS), Version 1.0.

Through this public comment period and corresponding webinar, the IWG–OCM seeks to solicit input on the draft NCMS.

DATES: See **SUPPLEMENTARY INFORMATION** section for location of the electronic version of the draft NCMS and webinar date.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for how to submit comments via email or by mail.

FOR FURTHER INFORMATION CONTACT: Sasha Pryborowski, (*Sasha.Pryborowski @noaa.gov,* 301–713–2702 x 111) or, Ashley Chappell (*Ashley.Chappell@ noaa.gov,* 301–713–2702 x 110).

SUPPLEMENTARY INFORMATION: The IWG–OCM, of which NOAA is a member agency, was formed in 2006 to provide federal interagency coordination on ocean and coastal mapping. In accordance with the 2009 Ocean and Coastal Mapping Integration Act (OCMIA), the IWG–OCM is enhancing its coordination of ocean and coastal mapping to more effectively and efficiently provide stakeholders and the public with comprehensive geospatial information.

This first version of the NCMS is intended to address interagency data acquisition and coordination mandates in the OCMIA, and the National Ocean Policy. It is focused on coastal topographic-bathymetric lidar elevation data collection; subsequent versions will focus on other types of data collection (*e.g.,* bathymetry, photogrammetry). Lidar stands for Light Detection and Ranging, a remote sensing method that uses light in the form of a pulsed laser to measure ranges (variable distances) to the Earth. These light pulses—combined with other data recorded by the airborne system—generate precise, three-dimensional information about the shape of the Earth and its surface characteristics, in particular elevation. More information on lidar can be found at *http://ocean service.noaa.gov/facts/lidar.html.*

Following is the executive summary from the draft NCMS Version1.0, which provides additional detail on the National Coastal Mapping Strategy:

Informed choices in the coastal zone, whether for the safety of coastal residents, environmental protection, security or economic decisions, require accurate and up-to-date U.S. coastal elevation data. The acquisition of this mapping data—in particular high-accuracy, high-resolution topographic and bathymetric lidar—must be comprehensive, coordinated, cost-effective, and recurring. Such a strategic approach to land-water lidar mapping at the coasts would bring the United States much closer to becoming a 3D Nation—a nation that translates robust mapping coordination into a seamless, modern elevation foundation for stronger, more resilient communities and a more competitive U.S. economy.

The IWG–OCM, tasked by Congress to develop a coastal mapping plan in the Ocean and Coastal Mapping Integration Act of 2009, has produced this first iteration of a NCMS to focus on that portion of the U.S. coastal zone that can be successfully mapped by a mix of lidar techniques for accurate elevation data. Recognizing the ongoing progress on lidar mapping coordination in the coastal zone, the IWG–OCM decided to capitalize on this existing momentum, and focus this first version of the NCMS on topographic and bathymetric lidar mapping of the U.S. coasts, Great Lakes, territories and possessions. Future iterations will include ocean mapping in the offshore and Outer Continental Shelf regions using technologies such as acoustic, aerial photography, hyperspectral and satellite imagery, to continue to build out the U.S. elevation dataset and meet other mapping needs (*e.g.,* bathymetry, nautical charting, habitat assessment, tsunami models). This NCMS 1.0 assesses the next steps needed to achieve the vision of the United States as a 3D Nation with comprehensive lidar elevation coverage, including whether there is sufficient interest in mapping U.S. coastal areas routinely through the judicious, efficient and closely-aligned collection of lidar bathymetry and topography. The strategy also contains four actionable components on the path to develop Coastal Lidar Elevation for a 3D Nation.

- Component 1 describes the organization of IWG–OCM Coastal Mapping Summits linked to web-based reporting in order to enhance existing and ongoing coordination on coastal lidar acquisition.
- Component 2 details definitions for bathymetric lidar Quality Levels that will foster the collection of interoperable datasets by all IWG–OCM member agencies involved in lidar collection.
- The focus of Component 3 is to improve interagency coordination on data management tasks (validation, processing, stewardship, dissemination and archiving) in order to reduce costs, maximize efficiency, and avoid duplication of effort.
- Lastly, Component 4 lays out an approach for cooperation on targeted methods, research, and technique development. New tools and improved technologies developed through this structure will facilitate interagency collaboration in obtaining the maximum value from shared coastal mapping data.

Other Information

The draft NCMS Version 1.0 can be found at: *http://www.iocm.noaa.gov/ iwg/.*

Stakeholders and the public are encouraged to submit comments and questions on the NCMS. Electronic comments and questions on the NCMS may be submitted via email to *iwgocm.staff@noaa.gov.* Written comments may also be submitted to NOAA Integrated Ocean and Coastal Mapping Program, SSMC–3, #6815, 1315 East-West Highway, Silver Spring, MD 20910.

A webinar has also been scheduled to answer questions that stakeholders or the public may have on the NCMS and to gather input on how to improve the draft, such as by identifying missing elements or incorporating other perspectives. All interested parties are encouraged to participate. Comments and questions are welcomed both ahead of, and after, the webinar using the mechanisms identified above.

National Coastal Mapping Strategy Webinar—[June 23, 2016, 1:00–2:00 p.m. EST]

- TELECONFERENCE INFORMATION
  - Dial-in Number: 1–888–459–8313

- Passcode: 6564989#
- WEB CONFERENCE INFORMATION
- Persons wishing to attend the meeting online via the web conference must register in advance no later than 5 p.m. EST on June 20, 2016, by sending an email to *Sasha.Pryborowski@noaa.gov.*
- Instructions to Join Web Conference on June 23, 2016:
  - Join the meeting: *http://www.mymeetings.com/nc/join.php?sigKey=mymeetings&i=748882585&p=&t=c*
  - Enter the required fields (no passcode required)
  - Meeting Number: 748882585
  - Meeting Passcode: none required
- Indicate that you have read the Privacy Policy.
- Click on Proceed.

Note that the web conference is limited to 200 participants and will therefore be available on a first-come, first-served basis. The agenda for the webinar will include time for questions and answers, and comments. The agenda will be posted to *http://www.iocm.noaa.gov/iwg/* at least 10 days before the webinar.

Other Information

Paperwork Reduction Act: NOAA has determined that this action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Dated: May 31, 2016.

W. Russell Callender,

Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2016–13568 Filed 6–7–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Electronic Monitoring Systems and Vessel Monitoring Systems (VMS) for Atlantic Highly Migratory Species (HMS)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 8, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Margo Schulze-Haugen, (301) 427–8503 or *Margo.Schulze-Haugen@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

VMS and electronic monitoring systems collect important information on fishing effort, catch, and the geographic location of fishing effort and catch for certain sectors of the Atlantic HMS fleet. Data collected through these programs are used in both domestic and international fisheries management, including for law enforcement, stock assessments, and quota management purposes. Atlantic HMS vessels required to use VMS are pelagic longline, purse seine, bottom longline (directed shark permit holders in North Carolina, South Carolina, and Virginia), and gillnet (directed shark permit holders consistent with the requirements of the Atlantic large whale take reduction plan requirements at 50 CFR 229.39.(h)) vessels. In addition to VMS, pelagic longline vessels are also required to have electronic monitoring systems to monitor catch and account for bluefin tuna harvest and discards.

The National Marine Fisheries Service (NMFS) Office of Law Enforcement (OLE) monitors fleet adherence to gear- and time-area restrictions with VMS position location data. Gear restricted areas and time-area closures are important tools for Atlantic HMS management that have been implemented to reduce bycatch of juvenile swordfish, sea turtles, and bluefin tuna, among other species. Electronic monitoring data from the pelagic longline fleet includes bluefin tuna discard and harvest information. These data are used by NMFS to accurately monitor bluefin tuna catch by the pelagic longline fleet, to ensure compliance with Individual Bluefin Quota (IBQ) limits and requirements, and to ensure that the Longline category bluefin tuna quota is not over-harvested. VMS reporting of bluefin tuna catch is used to monitor the status of IBQ allocations in real-time.

Atlantic HMS fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Atlantic Tunas Conservation Act (ATCA). Under the MSA, management measures must be consistent with ten National Standards, and fisheries must be managed to maintain optimum yield, rebuild overfished fisheries, and prevent overfishing. Under ATCA, the Secretary of Commerce shall promulgate regulations, as necessary and appropriate, to implement measures adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

II. Method of Collection

First-time VMS respondents must install a VMS unit and submit an activation checklist to NMFS via mail. Hail-out, hail-in, hourly position reports, and bluefin tuna catch reports must be submitted to NMFS via the VMS communication system. First-time electronic monitoring respondents must have an electronic monitoring system installed by a NMFS contractor. Electronic monitoring data must be submitted after each pelagic longline trip via mail.

III. Data

OMB Control Number: 0648–0372.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Businesses or other for-profit organizations; individuals or households; State, Local, or Tribal government.

Estimated Number of Respondents: 311.

Estimated Time per Response: Four hours for initial VMS installation; 5 minutes per VMS initial activation checklist; 2 minutes per VMS hail-out/hail-in declaration; 6 hours for electronic monitoring installation; 5 minutes for VMS pelagic longline bluefin tuna catch reporting;15 minutes for VMS purse seine bluefin tuna catch records; 1 minute for dockside review of bluefin tuna catch records previously submitted via VMS; 2 hours for electronic monitoring data retrieval.

Estimated Total Annual Burden Hours: 20,402.

Estimated Total Annual Cost to Public: $389,416 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 2, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–13519 Filed 6–7–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0011]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 8, 2016.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Vietnam War Commemoration Program Partner Events; DD Form 2956, DD Form 2957, Vietnam War 50th Commemoration Certificate of Honor (1) ''In Memory Of'' (DD Form x711), (2) ''Former Vietnam POW'' (DD Form x712), and (3) ''Unaccounted For'' (DD Form x713); OMB Control Number 0704–0500.

Type of Request: Revision.

Number of Respondents: 12,000.

Responses per Respondent: 7.

Annual Responses: 22,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 5,500.

Needs and Uses: The information collection requirement is necessary to notify the United States of America Vietnam War Commemoration Program of Commemorative Partner's planned events. Information is submitted for inclusion on the Program's events calendar and to request event support in the form of materials and/or speakers from the program. The information collection is necessary to obtain, vet, record, process and provide Certificates of Honor to be presented on behalf of a grateful nation by partner organizations. Additionally, this collection is necessary for the partner organizations to communicate to the Commemoration program the results of their events and lessons learned.

Affected Public: Businesses or other for-profits; Not-for-profit institutions; Federal Government; State, local, or tribal government, and individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID 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.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: June 3, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–13561 Filed 6–7–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0069]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology and Logistics, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the 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 August 8, 2016.

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:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

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 Department of Defense Office of Economic Adjustment, 2231 Crystal Drive, Suite 520, Arlington, Virginia, 22202–3711, ATTN: Mr. James P. Holland, or call 703–697–2188, email: *james.p.holland8.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Revitalizing Base Closure Communities, Economic Development Conveyance Annual Financial Statement; OMB Control Number 0790–0004.

Needs and Uses: The information collection requirement is necessary to verify that Local Redevelopment Authority (LRA) recipients of Economic Development Conveyances (EDCs) are in compliance with the requirement that the LRA reinvest proceeds from the use of EDC property for seven years.

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 2,000.

Number of Respondents: 50.

Responses per Respondent: 1.

Annual Responses: 50.

Average Burden per Response: 40 hours.

Frequency: Annual.

Respondents are LRAs that have executed EDC agreements with a Military Department that transferred property from a closed military installation. As provided by 32 CFR 174.9, such agreements require that the LRA reinvest the proceeds from any sale, lease or equivalent use of EDC property (or any portion thereof) during at least the first seven years after the date of the initial transfer of the property to support the economic redevelopment of, or related to, the installation. The Secretary of Defense may recoup from the LRA such portion of these proceeds not used to support the economic redevelopment of, or related to, the installation. LRAs are subject to this same seven-year reinvestment requirement if their EDC agreement is modified to reduce the debt owed to the Federal Government. Military Departments monitor LRA compliance with this provision by requiring an annual financial statement certified by an independent Certified Public Accountant. No specific form is required.

Dated: June 3, 2016.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2016–13566 Filed 6–7–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal advisory committee meeting of the Defense Advisory Committee on Military Personnel Testing.

DATES: Thursday, July 7, 2016, from 9:00 a.m. to 4:00 p.m. and Friday, July 8, 2016, from 9:00 a.m. to 12:00 p.m.

ADDRESSES: The Academy Hotel, 8110 North Academy Boulevard, Colorado Springs, Colorado 80920.

FOR FURTHER INFORMATION CONTACT: Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Under Secretary of Defense for Personnel and Readiness, Room 3D1066, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (title 5 United States Code (U.S.C.), Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and title 41, Code of Federal Regulations (CFR), section 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to review planned changes and progress in developing computerized tests for military enlistment screening.

Agenda: The agenda includes an overview of current enlistment test development timelines, test development strategies, and planned research for the next 3 years.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public.

Committee's Designated Federal Officer or Point of Contact: Dr. Jane M. Arabian, Assistant Director, Accession Policy, Office of the Under Secretary of Defense for Personnel and Readiness, Room 3D1066, The Pentagon, Washington, DC 20301–4000, telephone (703) 697–9271.

Persons desiring to make oral presentations or submit written statements for consideration at the committee meeting must contact Dr. Jane M. Arabian at the address or telephone number in the **FOR FURTHER INFORMATION CONTACT** section no later than Wednesday, June 15, 2016.

Dated: June 3, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–13524 Filed 6–7–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Comprehensive Centers Program—National Comprehensive Center on Improving Literacy for Students With Disabilities

AGENCY: Offices of Elementary and Secondary Education and Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information:

Comprehensive Centers Program—National Comprehensive Center on Improving Literacy for Students with Disabilities Notice inviting applications for a new award for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.283D.

DATES:

Applications Available: June 8, 2016.

Deadline for Transmittal of Applications: July 25, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Section 2244 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), requires the Secretary to establish a comprehensive center on students at risk of not attaining full literacy skills due to a disability. Comprehensive Centers are typically administered by the Office of Elementary and Secondary Education (OESE). OESE is funding this Center; however, because of the Center's subject matter, it will be administered jointly by

OESE and the Office of Special Education and Rehabilitative Services (OSERS).

Priority: We are establishing this priority for the FY 2016 grant competition in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priority: This priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

National Comprehensive Center on Improving Literacy for Students with Disabilities.

Priority: The purpose of this priority is to fund a cooperative agreement to establish a National Comprehensive Center on Improving Literacy for Students with Disabilities (the Center) for children in early childhood education programs through high school. The comprehensive center must:

(a) Identify or develop free or low-cost evidence-based assessment tools for identifying students at risk of not attaining full literacy skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning;

(b) Identify evidence-based literacy instruction, strategies, and accommodations, including assistive technology, designed to meet the specific needs of such students;

(c) Provide families of such students with information to assist such students, and as part of this activity, the Center should plan to collaborate with the parent training and information and community parent resource centers funded by the Department of Education (the Department), Office of Special Education Programs (OSEP) (*e.g.,* Center for Parent Information and Resources, and Parent Technical Assistance Centers);

(d) Identify or develop evidence-based professional development for teachers, paraprofessionals, principals, other school leaders, and specialized instructional support personnel to—

(1) Understand early indicators of students at risk of not attaining full literacy skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning;

(2) Use evidence-based screening assessments for early identification of such students beginning not later than kindergarten; and

(3) Implement evidence-based instruction designed to meet the specific needs of such students; and

(d) Disseminate the products of the comprehensive center to regionally diverse State educational agencies (SEAs), local educational agencies (LEAs), regional educational agencies, and schools, including, as appropriate, through partnerships with other comprehensive centers established under section 203 of the Educational Technical Assistance Act of 2002 (20 U.S.C. 9602), regional educational laboratories established under section 174 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9564), and OSEP- and other related federally-funded technical assistance centers.

Application Requirements: The following requirements apply to all applications submitted under this competition. Any application that does not include the required documents or information will not be considered.

(a) Demonstrate in the narrative section of the application under ''Significance of the Project'' how the proposed project will address current and emerging training and information needs of SEAs, LEAs, technical assistance (TA) centers, schools, and practitioners to select and implement evidence-based practices that will improve literacy outcomes for students with disabilities or students who show indicators of disabilities that may prevent them from attaining full literacy skills. To meet this requirement, the applicant must—

(1) Demonstrate knowledge of current and emerging evidence-based practices in reading and literacy-related instruction, screening, assessment, and identification of students with disabilities or students who show indicators of disabilities that may prevent them from attaining full literacy skills, including knowledge of culturally responsive evidence-based practices to respond to the needs of diverse learners with disabilities;

(2) Demonstrate knowledge of and previous experience with using creative approaches to disseminate evidence-based practices to a variety of entities, including parents, SEAs, LEAs, schools, Head Start, and other early childhood programs;

(3) Demonstrate knowledge of and previous experience with implementing TA strategies and delivering evidence-based professional development (PD) to a variety of entities, including SEAs, LEAs, schools, Head Start, and other early childhood programs; and

(4) Demonstrate how using these TA and PD strategies has resulted in SEAs, LEAs, schools, teachers, paraprofessionals, principals, other school leaders, and specialized instructional support personnel adopting, implementing, and sustaining evidence-based practices in reading and literacy-related instruction.

(b) Demonstrate in the narrative section of the application under ''Quality of Project Design,'' how the Center will accomplish project goals and activities. To meet this requirement, the applicant must—

(1) Describe a five-year plan for the Center to identify current and emerging training and information needs and to address the priority requirements;

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

(3) Incorporate current research and evidence-based practices and strategies in the development and delivery of its products and services;

(4) Provide TA that is of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. The applicant must describe how it will use TA of varying levels of intensity, based on the needs of SEAs and other entities, to assess and build the capacity of SEAs, LEAs, TA centers, schools, Head Start and other early childhood programs, and practitioners to—

(i) Assess students' literacy-related skills, including the capacity to: Identify students with disabilities or students who show indicators of disabilities that may prevent them from attaining full literacy skills, administer assessments including screening tools, evaluate the evidence base for an assessment (*i.e.,* reliability, validity, sensitivity, specificity), understand the purpose of the assessment and the skills being assessed, and interpret assessment results;

(ii) Fully implement evidence-based literacy-related programs. This involves helping practitioners understand the literacy program's purpose or goal, intended population, content, and necessary implementation supports, including PD needed to implement it with fidelity; and

(iii) Use evidence-based PD programs to improve practitioners' knowledge of reading and literacy-related instruction, ultimately leading to better literacy-related skills of students with disabilities or students who show indicators of disabilities that may prevent them from attaining full literacy skills;

(5) Partner with other federally funded comprehensive centers, regional educational laboratories, equity assistance centers, TA centers, parent training and information and community parent resource centers, and other related organizations to refine or develop products, create training modules, and hold meetings to both encourage collaborative activities among SEAs, LEAs, schools, Head Start and other early childhood programs, practitioners, and parents, and maximize efficiency. These partnerships should include—

(i) Using technology, including assistive technology, to achieve intended project outcomes;

(ii) Collaborating with national experts, institutions of higher education, and TA providers to avoid duplicating efforts; and

(iii) Collaboratively identifying measures or guidelines for detecting if, due to a disability, students are at risk of not attaining full literacy skills, not learning to read, or not reaching benchmarks.

(c) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan for the project. The evaluation plan must—

(1) Describe performance goals, objectives, and outcomes for the project that are clearly specified and measurable in terms of the project activities to be accomplished and their stated outcomes;

(2) In accordance with paragraph (f)(1) of these Application Requirements, describe the logic model by which the proposed project will achieve its intended outcomes;

(3) Describe how both progress in implementation and project outcomes will be measured, including the extent to which the project's products and services will reach its target population, how intended outcomes or results are achieved, a timeline for conducting the evaluation, and data analytic strategies.

(4) Specify the measures and associated instruments or sources for data appropriate to the evaluation questions, suggest analytic strategies for those data, provide a timeline for conducting the evaluation, and include staff assignments for completing the plan;

(5) Describe how evaluations of performance will be used to inform and improve service delivery over the course of the grant and to refine the proposed logic model and evaluation plan, including data collection; and

(6) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (c)(1) and (2) of these Application Requirements and implementing the evaluation plan.

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

(1) The proposed key project personnel, consultants, and subcontractors have the qualifications and subject-matter and technical expertise to carry out the proposed activities, achieve the project's intended outcomes, and develop ongoing partnerships with leading experts and organizations nationwide to inform project activities;

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

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

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

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

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

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

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

(2) Allocation of key project personnel and any consultants and subcontractors and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

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

(4) The proposed project will benefit from a diversity of perspectives, including families, general and special education teachers, related services providers, TA providers, researchers, institutions of higher education, policy makers, among others, in its development and operation.

(f) The applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project.

Note: OSEP uses this definition of logic model to differentiate between logic models and conceptual frameworks. The following Web sites provide more information on logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(2) Include, in Appendix A, a conceptual framework for the project;

(3) Include, in Appendix A, person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include in the budget 2-day trips twice per year to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by the Department; and

(5) Maintain a Web site that meets government or industry-recognized standards for accessibility.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the project officer and the grantee's project director or other authorized representative.

Definitions: These definitions apply to the National Comprehensive Center on Improving Literacy for Students with Disabilities priority in this notice. The definition of ''evidence-based'' comes from section 8002 of the ESEA, as amended by the ESSA. The definitions are as follows:

Evidence-based means an activity, strategy, or intervention that (i) demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—(I) strong evidence from at least one well-designed and well-implemented experimental study; (II) moderate evidence from at least one well-designed and well-implemented quasi-experimental study; or (III) promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or (ii)(I) demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and (II) includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

Practitioners (for the purposes of this priority) includes teachers, paraprofessionals, principals, other school leaders, and specialized instructional support personnel.

TA services are defined as a negotiated series of activities designed

to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for the Comprehensive Centers program under section 2244 of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6674, and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forego public comment on the priority and requirements under section 437(d)(1) of GEPA. The priority and requirements will apply to the FY 2016 grant competition only.

Program Authority: 20 U.S.C. 6674; Consolidated Appropriations Act, 2016.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $1,475,000.

Maximum Award: We will reject any application that proposes a budget exceeding $1,475,000 for a single budget period of 12 months in year one and $1,500,000 for a single budget period in years 2–5.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this notice.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: SEAs; LEAs, including public charter schools that operate as LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian tribes or tribal organizations; and for-profit organizations suitable to carry out the activities proposed in the application.

(b) The grantee may award subgrants to entities it has identified in an approved application.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.283D.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 60 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirements do not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirements do apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section or if you apply standards other than those specified in this notice and the application package.

3. *Submission Dates and Times:*

Applications Available: June 8, 2016.

Deadline for Transmittal of Applications: July 25, 2016.

Applications for grants under this competition must be submitted electronically using the *Grants.gov* Apply site (*Grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application

process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov.*

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the National Comprehensive Center on Improving Literacy for Students with Disabilities competition, CFDA number 84.283D, must be submitted electronically using the Governmentwide *Grants.gov* apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the National Comprehensive Center on Improving Literacy for Students with Disabilities competition at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.283, not 84.283D).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at:

www.grants.gov/web/grants/applicants/apply-for-grants.html.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues With the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the *Grants.gov* system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Kristen Rhoads, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza, Washington, DC 20202–5076. FAX: (202) 245–7619.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.283D), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.283D), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* To evaluate the overall success of the Comprehensive Center program, the Department will use three performance measures to assess the quality, relevance, and usefulness of center activities funded under this competition. These measures, adapted from a set of common measures developed to help assess performance across the Department's TA programs, are: (1) The percentage of all Comprehensive Centers' products and services that are deemed to be of high quality by qualified experts or individuals with appropriate expertise to review the substantive content of the products and services; (2) the percentage of all Comprehensive Centers' products and services that are deemed to be of high relevance to

educational policy or practice by target audiences; and (3) the percentage of all Comprehensive Centers' products and services that are deemed to be of high usefulness to educational policy or practice by target audiences.

All grantees will be expected to submit, as part of their performance reports, quantitative data documenting their progress with regard to these performance measures.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

For Further Information Contact: Kristen Rhoads, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6715.

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

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting Wendell Bell, U.S. Department of Education, 400 Maryland Avenue SW., Room 5113, Potomac Center Plaza, Washington, DC 20202–5108. Telephone: (202) 245–7268. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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

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

Dated: June 3, 2016.

Ann Whalen,

Delegated the Authority to Perform the Functions and Duties of Assistant Secretary for Elementary and Secondary Education.

Sue Swenson,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–13587 Filed 6–7–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0066]

Agency Information Collection Activities; Comment Request; Race to the Top—Early Learning Challenge Annual Performance Report

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 8, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0066. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–349, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Deborah Spitz, 202–260–3793.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Race to the Top—Early Learning Challenge Annual Performance Report.

OMB Control Number: 1810–0713.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 11.

Total Estimated Number of Annual Burden Hours: 1,320.

Abstract: The Department of Education and the Department of Health and Human Services (Departments) are requesting renewal of the currently approved Annual Performance Report for RTT–ELC grantees, without making any material change to the collection instrument, instructions, frequency of collection or use. The information submitted in the Annual Performance Report is used to verify that grantees are making substantial progress toward the achievement of approved objectives. This grant awarded all funds up front, so the APR will not be used to determine continuation awards, but will

be used to provide necessary performance information and data to program staff and to the public. Further, this APR form collects aggregate and quantifiable data needed to respond to the requirements of the Government Performance and Results Act (GPRA).

Information is collected under the authority of Sections 14005 and 14006, Division A, of the American Recovery and Reinvestment Act of 2009, as amended by section 1832(b) of Division B of P.L. 112–10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011, and the Department of Education Appropriations Act, 2012 (Title III of Division F of P.L. 112–74, the Consolidated Appropriations Act, 2012). (Attached is a copy of the authorizing statute.)

Dated: June 2, 2016.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–13460 Filed 6–7–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 16–28–LNG]

Venture Global Plaquemines LNG, LLC; Application for Long-Term, Multi-Contract Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on March 1, 2016, by Venture Global Plaquemines LNG, LLC (Plaquemines LNG), requesting long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG), up to the equivalent of 1,240 billion cubic feet per year (Bcf/y) of natural gas. Plaquemines LNG requested authority to export this LNG to any country which has, or in future develops, the capacity to import LNG via ocean-going carriers, with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U. S. law or policy (non-FTA countries).[1] Plaquemines LNG seeks authorization to export this LNG for a 25-year term commencing on the earlier of the date of first export or seven years from the date the authorization is issued. Plaquemines LNG proposes to conduct its export operations from the Plaquemines LNG Project, a planned natural gas liquefaction and LNG export terminal to be located on the west bank of the Mississippi River, near river mile marker 55, in Plaquemines Parish, Louisiana. Plaquemines LNG seeks to export this LNG on its own behalf and as agent for other entities who hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Additional details can be found in Plaquemines LNG's Application, posted on the DOE/FE Web site at: *http://www.energy.gov/fe/venture-global-plaquemines-lng-llc-plaquemines-lng-fe-dkt-no-16-28-lng-ftanfta.*

Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, August 8, 2016.

ADDRESSES:

Electronic Filing by email:fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.): U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Kyle W. Moorman or Larine Moore, U.S. Department of Energy (FE–34) Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–7970; (202) 586–9578.

Edward Myers, U.S. Department of Energy (GC–76) Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–3397.

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the following two studies examining the cumulative impacts of exporting domestically produced LNG:

- *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets,* conducted by the U.S. Energy Information Administration upon DOE's request (2014 EIA LNG Export Study);[2] and
- *The Macroeconomic Impact of Increasing U.S. LNG Exports,* conducted jointly by the Center for Energy Studies at Rice University's Baker Institute for Public Policy and Oxford Economics, on behalf of DOE (2015 LNG Export Study).[3]

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States, 79 FR 48132 (Aug. 15, 2014);*[4] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied*

[1] In the Application, Plaquemines LNG also requests authorization to export LNG to any nation that currently has, or in the future may enter into, a FTA requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries). DOE/FE will review that request for a FTA export authorization separately pursuant to NGA § 3(c), 15 U.S.C. 717b(c). The proposed export volumes for FTA and non-FTA destination countries are not additive.

[2] The 2014 EIA LNG Export Study, published on Oct. 29, 2014, is available at: *https://www.eia.gov/analysis/requests/fe/.*

[3] The 2015 LNG Export Study, dated Oct. 29, 2015, is available at: *http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf.*

[4] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

Natural Gas from the United States, 79 FR 32260 (June 4, 2014).[5]

Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Due to the complexity of the issues raised by the Applicant, interested parties will be provided 60 days from the date of publication of this Notice in which to submit their comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 16–28–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 16–28–LNG. **Please Note:** If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on June 1, 2016.

John A. Anderson,

Director, Office of Regulation and International Engagement, Office of Oil and Natural Gas.

[FR Doc. 2016–13550 Filed 6–7–16; 8:45 am]

BILLING CODE 6450–01–P

[5] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

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: ER10–2960–006; ER10–1595–006; ER10–1598–006; ER10–1616–006; ER10–1618–006.

Applicants: Astoria Generating Company, L.P., Crete Energy Venture, LLC, Lincoln Generating Facility, LLC, New Covert Generating Company, LLC, Rolling Hills Generating, L.L.C.

Description: Notice of Non-Material Change in Status of Astoria Generating Company, L.P., et al.

Filed Date: 5/31/16.

Accession Number: 20160531–5671.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1822–000.

Applicants: Pacific Gas and Electric Company.

Description: Section 205(d) Rate Filing: May 2016 Western WDT Service Agreement Biannual Filing to be effective 8/1/2016.

Filed Date: 5/31/16.

Accession Number: 20160531–5542.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1823–000.

Applicants: Pacific Gas and Electric Company.

Description: Section 205(d) Rate Filing: May 2016 Western Interconnection Agreement Biannual Filing to be effective 8/1/2016.

Filed Date: 5/31/16.

Accession Number: 20160531–5549.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1824–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: Section 205(d) Rate Filing: WPC 2016 Rider F & G and SSR Amendments to be effective 6/1/2016.

Filed Date: 5/31/16.

Accession Number: 20160531–5559.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1825–000.

Applicants: Duke Energy Progress, LLC.

Description: Section 205(d) Rate Filing: NCEMC–PJM Dynamic Transfer Agreement RS No 202 to be effective 6/1/2016.

Filed Date: 5/31/16.

Accession Number: 20160531–5585.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1826–000.

Applicants: Southwest Power Pool, Inc.

Description: Section 205(d) Rate Filing: 1067R7 East Texas Electric Cooperative NITSA and NOA to be effective 5/1/2016.

Filed Date: 5/31/16.

Accession Number: 20160531–5590.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1827–000.

Applicants: GenOn Energy Management, LLC.

Description: Section 205(d) Rate Filing: Tariff Filing and Request for Waiver to be effective 6/1/2016.

Filed Date: 5/31/16.

Accession Number: 20160531–5605.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1828–000.

Applicants: New York State Electric & Gas Corporation.

Description: Section 205(d) Rate Filing: Executed Transmission Facility Interconnection Agreement to be effective 5/27/2016.

Filed Date: 5/26/16.

Accession Number: 20160526–5361.

Comments Due: 5 p.m. ET 6/16/16.

Docket Numbers: ER16–1829–000.

Applicants: Clean Energy Future—Lordstown, LLC.

Description: Request for Limited Waiver of Clean Energy Future ? Lordstown, LLC.

Filed Date: 5/31/16.

Accession Number: 20160531–5640.

Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1830–000.

Applicants: AEP Texas Central Company.

Description: Section 205(d) Rate Filing: TCC-TNC-Rio Grande EC TSA Second Amend & Restated to be effective 5/6/2016.

Filed Date: 6/1/16.

Accession Number: 20160601–5111.

Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: ER16–1831–000.

Applicants: AEP Texas North Company.

Description: Section 205(d) Rate Filing: TCC-TNC-Rio Grande EC TSA Second Amend & Restated Concurrence to be effective 5/6/2016.

Filed Date: 6/1/16.

Accession Number: 20160601–5112.

Comments Due: 5 p.m. ET 6/22/16.

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: June 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–13445 Filed 6–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–123–000.

Applicants: BluCo Energy LLC.

Description: Application under FPA Section 203 of BluCo Energy LLC.

Filed Date: 6/1/16.

Accession Number: 20160602–5182.

Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: EC16–124–000.

Applicants: Iron Energy LLC.

Description: Application under FPA Section 203 of Iron Energy LLC.

Filed Date: 6/1/16.

Accession Number: 20160602–5187.

Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: EC16–125–000.

Applicants: Northbrook New York, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act and Request for Waivers and Expedited Action of Northbrook New York, LLC.

Filed Date: 6/1/16.

Accession Number: 20160601–5406.

Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: EC16–126–000.

Applicants: Odell Wind Farm, LLC, Algonquin Power (Odell Holdings) Inc., Odell SponsorCo, LLC, Odell Holdings, LLC.

Description: Application of Odell Wind Farm, LLC, et al. for Authorization Under Section 203 of the Federal Power Act for Disposition of Jurisdictional Facilities, Request for Expedited Consideration and Confidential Treatment.

Filed Date: 6/1/16.

Accession Number: 20160602–5222.

Comments Due: 5 p.m. ET 6/22/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2238–008; ER10–2239–008; ER10–2237–007; ER12–896–004.

Applicants: Indigo Generation LLC, Larkspur Energy LLC, Wildflower Energy LP, Mariposa Energy, LLC.

Description: Triennial Market Power Analysis for the Southwest Region of the DGC Southwest Sellers, et al.

Filed Date: 6/2/16.

Accession Number: 20160602–5324.

Comments Due: 5 p.m. ET 8/1/16.

Docket Numbers: ER15–767–003

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2016–06–02_Schedule 43I White Pine 2 SSR Cost Allocation Compliance to be effective 1/1/2015.

Filed Date: 6/2/16.

Accession Number: 20160602–5256.

Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER15–2145–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2016–06–02_Schedule 43H_White Pine 1 SSR Cost Allocation Compliance to be effective 4/16/2015.

Filed Date: 6/2/16.

Accession Number: 20160602–5299.

Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–938–004.

Applicants: Arizona Public Service Company.

Description: Compliance filing: Compliance Filing—Corrected Schedule 10 to be effective 10/1/2016.

Filed Date: 6/2/16.

Accession Number: 20160602–5329.

Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1083–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2016–06–02SA 2786 ITC Midwest-IPL 1st Rev. GIA (J233) Compliance to be effective 3/5/2016.

Filed Date: 6/2/16.

Accession Number: 20160602–5300.

Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1835–000.

Applicants: Appalachian Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: AEPSC submits revisions to RAA Sch 8.1–Appdx 2B re: depreciation rates for APCo to be effective 6/1/2016.

Filed Date: 6/2/16.

Accession Number: 20160602–5002.

Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1836–000.

Applicants: Deseret Generation & Transmission Co-operative, Inc.

Description: § 205(d) Rate Filing: 2016 RIA Annual Update to be effective 1/1/2016.

Filed Date: 6/1/16.

Accession Number: 20160602–5003.

Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: ER16–1837–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA SA No. 4475, Queue No. Z2–116 to be effective 5/23/2016.

Filed Date: 6/2/16.

Accession Number: 20160602–5147.

Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1838–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: Joint Filing of ISO–NE and NEPOOL to Implement Sub-Hourly Settlements to be effective 3/1/2017.
Filed Date: 6/2/16.
Accession Number: 20160602–5148.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1839–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: 2016–06–02SA 2921 Ameren Illinois-Prairie Power T–TIA (Ballard Substation) to be effective 5/3/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5150.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1840–000.
Applicants: PPL Electric Utilities Corporation, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: PPL submits Engineering and Construction SA No. 4476 with MetEd to be effective 8/1/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5153.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1841–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA SA No. 4472, Queue No. Z2–114 to be effective 5/23/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5186.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1843–000.
Applicants: Beech Ridge Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5305.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1844–000.
Applicants: Beech Ridge Energy II LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5307.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1845–000.
Applicants: Beech Ridge Energy Storage LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5308.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1846–000.
Applicants: Bishop Hill Energy III LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5309.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1847–000.
Applicants: Buckeye Wind Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5310.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1848–000.
Applicants: Forward Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5312.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1849–000.
Applicants: Grand Ridge Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5313.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1850–000.
Applicants: Grand Ridge Energy III LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5314.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1851–000.
Applicants: Grand Ridge Energy IV LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5315.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1852–000.
Applicants: Grand Ridge Energy V LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5316.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1853–000.
Applicants: Grand Ridge Energy Storage LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5317.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1854–000.
Applicants: Gratiot County Wind LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5318.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1855–000.
Applicants: Gratiot County Wind II LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5319.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1856–000.
Applicants: Grays Harbor Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5320.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1857–000.
Applicants: Invenergy Cannon Falls LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5321.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1858–000.
Applicants: Invenergy TN LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5322.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1859–000.
Applicants: Invenergy Nelson LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5323.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1860–000.
Applicants: Judith Gap Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5325.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1861–000.
Applicants: Sheldon Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5326.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1862–000.

Applicants: Spindle Hill Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5330.
Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1863–000.
Applicants: Spring Canyon Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5332.
Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1864–000.
Applicants: Stony Creek Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5333.
Comments Due: 5 p.m. ET 6/23/16.
Docket Numbers: ER16–1865–000.
Applicants: Willow Creek Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5336.
Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1866–000.
Applicants: Wolverine Creek Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5340.
Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1867–000.
Applicants: Prairie Breeze Wind Energy II LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5342.
Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1868–000.
Applicants: Prairie Breeze Wind Energy III LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5344.
Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1869–000.
Applicants: Vantage Wind Energy LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5348.
Comments Due: 5 p.m. ET 6/23/16.

Docket Numbers: ER16–1870–000.
Applicants: Grand Ridge Energy II LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff Filing to be effective 8/2/2016.
Filed Date: 6/2/16.
Accession Number: 20160602–5357.
Comments Due: 5 p.m. ET 6/23/16.

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: June 2, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–13512 Filed 6–7–16; 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: RP16–976–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Section 4(d) rate filing per 154.204: Madill Gas Processing Negotiated Rate to be effective 6/27/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5099.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–977–000.
Applicants: Cimarron River Pipeline, LLC.
Description: Section 4(d) rate filing per 154.204: Negotiated Rates 2016–05 to be effective 5/27/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5109.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–978–000.
Applicants: Ruby Pipeline, L.L.C.
Description: Section 4(d) rate filing per 154.403(d)(2): FLU and EPC to be effective 7/1/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5143.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–979–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: AGT Cleanup Filing to be effective 7/1/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5172.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–980–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate—Keyspan Release to Chief 791677 to be effective 6/1/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5188.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–981–000.
Applicants: Portland Natural Gas Transmission System.
Description: Section 4(d) rate filing per 154.204: Available Capacity ROFR Revisions to be effective 6/27/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5189.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–982–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate—Col Gas Release to BBPC 791665 to be effective 6/1/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5206.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–983–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate—BUG Release to Chief Energy 791678 to be effective 6/1/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5208.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–984–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate—Baystate Release to BBPC 791586 to be effective 6/1/2016.
Filed Date: 5/27/16.

Accession Number: 20160527–5213.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–985–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Section 4(d) rate filing per 154.403(d)(2): FL&U effective July 1, 2016 to be effective 7/1/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5215.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–986–000.
Applicants: Alliance Pipeline L.P.
Description: Section 4(d) rate filing per 154.204: Correct Language On Sheet 251 to be effective 4/1/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5216.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–987–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate—BBPC Release to EDF 791679 to be effective 6/1/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5219.
Comments Due: 5 p.m. ET 6/8/16.

Docket Numbers: RP16–989–000.
Applicants: WPX Energy Marketing, LLC, Citadel NGPE LLC.
Description: Joint Petition of WPX Energy Marketing, LLC and Citadel NGPE LLC for Temporary Waivers of Capacity Release Regulations, et al. and Request for Shortened Comment Period under RP16–989.
Filed Date: 5/27/16.
Accession Number: 20160527–5222.
Comments Due: 5 p.m. ET 6/3/16

Docket Numbers: RP16–1000–000.
Applicants: Columbia Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Negotiated & Non-Conforming Service Agreement—Kentucky Power to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5595.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–1001–000.
Applicants: Discovery Gas Transmission LLC.
Description: Section 4(d) rate filing per 154.403(d)(2): 2016 FL&U Submittal to be effective 7/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5604.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–1002–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Non-Conforming Agreements—Colonial 510025 and Narragansett 510075 to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5614.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–988–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Section 4(d) rate filing per 154.204: Negotiated Rates—Cherokee AGL—Replacement Shippers—Jun 2016 to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5000.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–990–000.
Applicants: Texas Gas Transmission, LLC.
Description: Section 4(d) rate filing per 154.204: Neg Rate Agmts (Munford 20593 and Poplar Grove 20592) to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5186.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–991–000.
Applicants: Texas Eastern Transmission, LP.
Description: Section 4(d) rate filing per 154.204: NJRES 910531 6–1–2016 Negotiated Rate to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5289.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–992–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (Willmut 35221 to BP 46451) to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5369.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–993–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (Atlanta 8438 to various eff 6–1–16) to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5370.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–994–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmts (Encana 37663 to Conoco 46456, Texla 46469) to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5373.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–995–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Section 4(d) rate filing per 154.204: Cap Rel Neg Rate Agmt (Petrohawk 41455 to Texla 46493) to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5374.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–996–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Compliance filing per 154.203: Cameron Interstate Pipeline, LLC eTariff Clean-Up to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5427.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–997–000.
Applicants: Enable Mississippi River Transmission, L.
Description: Section 4(d) rate filing per 154.204: Negotiated Rate Filing to Remove LER #5680 Effective 5–1–16 to be effective 5/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5454.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–998–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: Section 4(d) rate filing per 154.403: Periodic Rate Adjustment Filing to be effective 7/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5485.
Comments Due: 5 p.m. ET 6/13/16.

Docket Numbers: RP16–999–000.
Applicants: Northern Natural Gas Company.
Description: Section 4(d) rate filing per 154.204: 20160531 Negotiated Rate to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5500.
Comments Due: 5 p.m. ET 6/13/16.

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 Proceedings

Docket Numbers: RP16–549–002.
Applicants: PGPipeline LLC.
Description: Compliance filing per 154.203: NAESB 3.0 Compliance Filing to be effective 4/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5607.
Comments Due: 5 p.m. ET 6/13/16.

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: June 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–13448 Filed 6–7–16; 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: RP16–959–000.
Applicants: Alliance Pipeline L.P.
Description: Section 4(d) rate filing per 154.204: June 2016 Open Season to be effective 6/1/2016.
Filed Date: 5/19/16.
Accession Number: 20160519–5142.
Comments Due: 5 p.m. ET 5/31/16.

Docket Numbers: RP16–970–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Section 4(d) rate filing per 154.204: PCB Adjustment Period Extension through 2018 to be effective 7/1/2016.
Filed Date: 5/26/16.
Accession Number: 20160526–5082.
Comments Due: 5 p.m. ET 6/7/16.

Docket Numbers: RP16–972–000.
Applicants: Rager Mountain Storage Company LLC.
Description: Section 4(d) rate filing per 154.204: Assignment Update to be effective 6/26/2016.
Filed Date: 5/26/16.
Accession Number: 20160526–5100.
Comments Due: 5 p.m. ET 6/7/16.

Docket Numbers: RP16–973–000.
Applicants: Elba Express Company, L.L.C.
Description: Annual Cashout True-Up of Elba Express Company, L.L.C. under RP16–973.
Filed Date: 5/26/16.
Accession Number: 20160526–5166.
Comments Due: 5 p.m. ET 6/7/16.

Docket Numbers: RP16–974–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Section 4(d) rate filing per 154.601: Negotiated Rate Agreement Update (APS June 2016) to be effective 6/1/2016.
Filed Date: 5/26/16.
Accession Number: 20160526–5267.
Comments Due: 5 p.m. ET 6/7/16.

Docket Numbers: RP16–975–000.
Applicants: Venice Gathering System, L.L.C.
Description: Section 4(d) rate filing per 154.312: Filing to Change Rates to be effective 7/1/2016.
Filed Date: 5/26/16.
Accession Number: 20160526–5274.
Comments Due: 5 p.m. ET 6/7/16.

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: May 27, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–13446 Filed 6–7–16; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1833–000]

Sempra Gas & Power Marketing, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sempra Gas & Power Marketing, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 22, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 2, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–13513 Filed 6–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–1150–001.
Applicants: Duke Energy Ohio, Inc., PJM Interconnection, L.L.C.
Description: Compliance filing: Duke Energy submits compliance filing per 5/13/16 order in Docket No. ER16–1150 to be effective 5/13/2016.
Filed Date: 6/1/16.
Accession Number: 20160601–5303.
Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: ER16–1832–000.
Applicants: Entergy Louisiana, LLC.
Description: Section 205(d) Rate Filing: ELL Nine Mile 6 Reactive to be effective 8/1/2016.
Filed Date: 6/1/16.
Accession Number: 20160601–5175.
Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: ER16–1833–000.
Applicants: Sempra Gas & Power Marketing, LLC.
Description: Baseline eTariff Filing: Sempra Gas & Power Marketing, LLC Petition for Market-Based Rates to be effective 8/1/2016.
Filed Date: 6/1/16.
Accession Number: 20160601–5189.
Comments Due: 5 p.m. ET 6/22/16.

Docket Numbers: ER16–1834–000.
Applicants: PJM Interconnection, L.L.C.
Description: Section 205(d) Rate Filing: Original WMPA SA No. 4474, Queue No. Z2–113 to be effective 5/23/2016.
Filed Date: 6/1/16.
Accession Number: 20160601–5268.
Comments Due: 5 p.m. ET 6/22/16.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD16–6–000.
Applicants: North American Electric Reliability Corporation.
Description: Petition of the North American Electric Reliability Corporation for Approval of Proposed Reliability Standards IRO–018–1 and TOP–010–1.
Filed Date: 07/01/16.
Accession Number: 20160526–5364.
Comments Due: 5 p.m. ET 6/27/16.

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: June 1, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–13447 Filed 6–7–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–122–000.
Applicants: Virginia Electric and Power Company.
Description: Application of Virginia Electric and Power Company for Authorization Under Section 203 of the Federal Power Act and Requests for Waivers, Shortened Comment Period and Expedited Consideration.
Filed Date: 5/27/16.
Accession Number: 20160527–5265.
Comments Due: 5 p.m. ET 6/17/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1469–004; ER10–1467–004; ER10–1468–004; ER10–1459–008; ER13–785–003; ER13–713–003; ER10–1453–004.
Applicants: Cleveland Electric Illuminating Company, FirstEnergy Generation Mansfield Unit 1 Corp., FirstEnergy Generation, LLC, FirstEnergy Nuclear Generation, LLC, FirstEnergy Solutions Corp., Ohio Edison Company, The Toledo Edison Company, The Cleveland Electric Illuminating Company.
Description: Notice of change in status of the FirstEnergy Companies et al.
Filed Date: 5/27/16.
Accession Number: 20160527–5247.
Comments Due: 5 p.m. ET 6/17/16.

Docket Numbers: ER15–623–009.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Compliance Filing pursuant to the May 10, 2016 Order on Rehearing and Compliance to be effective 4/1/2015.
Filed Date: 5/31/16.
Accession Number: 20160531–5509.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–923–002.
Applicants: Puget Sound Energy, Inc.
Description: Compliance filing: EIM Attachment O Compliance to be effective 7/25/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5209.
Comments Due: 5 p.m. ET 6/17/16.

Docket Numbers: ER16–1808–000.
Applicants: Williams Flexible Generation, LLC.
Description: Tariff Cancellation: Cancellation of Tariff to be effective 5/30/2016.
Filed Date: 5/27/16.
Accession Number: 20160527–5207.
Comments Due: 5 p.m. ET 6/17/16.

Docket Numbers: ER16–1809–000.
Applicants: NSTAR Electric Company.
Description: § 205(d) Rate Filing: First Amendment to Exelon West Medway II Design and Engineering Agreement to be effective 5/31/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5154.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1810–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: Notice of Cancellation of Generator Interconnection and Operating Agreement of Michigan Electric Transmission Company, LLC.
Filed Date: 5/27/16.
Accession Number: 20160527–5254.
Comments Due: 5 p.m. ET 6/17/16.

Docket Numbers: ER16–1811–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3204 KCP&L GMO and City of Rich Hill, MO Interconnection Agr to be effective 5/27/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5271.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1812–000.
Applicants: Southwestern Electric Power Company.
Description: Informational Filing regarding postemployment benefits other than pensions and post-employment benefits of Southwestern Electric Power Company.
Filed Date: 5/27/16.
Accession Number: 20160527–5259.
Comments Due: 5 p.m. ET 6/17/16.

Docket Numbers: ER16–1813–000.
Applicants: New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: June 2016 Membership Filing to be effective 5/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5303.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1814–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Attachment M Appendix 1 to Update the Loss Factor for SPS to be effective 5/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5321.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1815–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: DSA, Technicast Feed-In-Tariff Project to be effective 7/31/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5433.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1816–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA SA No. 4471, Queue No. AB1–119 to be effective 5/17/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5437.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1817–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2016–05–31_Attachment X External NRIS Compliance Filing to be effective 12/31/9998.
Filed Date: 5/31/16.
Accession Number: 20160531–5480.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1818–000.
Applicants: South Eastern Generating Corp.
Description: Tariff Cancellation: Notice of Cancellation to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5499.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1819–000.
Applicants: South Eastern Electric Development Corp.
Description: Tariff Cancellation: Notice of Cancellation to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5501.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1820–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 3252, Queue No. W4–031 to be effective 7/22/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5502.
Comments Due: 5 p.m. ET 6/21/16.

Docket Numbers: ER16–1821–000.
Applicants: Utility Contract Funding II, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation to be effective 6/1/2016.
Filed Date: 5/31/16.
Accession Number: 20160531–5503.
Comments Due: 5 p.m. ET 6/21/16.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH16–7–000.
Applicants: Public Sector Pension Investment Board.
Description: Public Sector Pension Investment Board submits FERC 65–B Waiver Notification.
Filed Date: 5/27/16.
Accession Number: 20160527–5264.
Comments Due: 5 p.m. ET 6/17/16.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR16–4–000.
Applicants: North American Electric Reliability Corporation.
Description: North American Electric Reliability Corporation's Report of Comparisons of Budgeted to Actual Costs for 2015 for NERC and the Regional Entities.
Filed Date: 5/31/16.
Accession Number: 20160531–5442.
Comments Due: 5 p.m. ET 6/21/16.

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: May 31, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–13444 Filed 6–7–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9947–38–Region 4; CERCLA–04–2016–3751]

Cannon Drive Drum Superfund Site Social Circle, Walton County, Georgia; Notice of Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement with Carter Jackson Inc., The Estate of Charles E. Carter and the United States Defense Logistics Agency, concerning the Cannon Drive Drum Superfund Site located in Social Circle, Walton County, Georgia. The settlement addresses recovery of CERCLA costs for a cleanup action performed by the EPA at the Site.

DATES: The Agency will consider public comments on the settlement until July 8, 2016. The Agency will consider all comments received and may modify or withdraw its consent to the proposed settlement if comments received disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from the Agency by contacting Ms. Paula V. Painter, Program Analyst, using the contact information provided in this notice. Comments may also be submitted by referencing the Site's name through one of the following methods:

- *Internet: https://www.epa.gov/aboutepa/about-epa-region-4-southeast#r4-public-notices*
- *U.S. Mail:* U.S. Environmental Protection Agency Superfund Division, Attn: Paula V. Painter, 61 Forsyth Street SW., Atlanta, Georgia 30303.
- *Email: Painter.Paula@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404–562–8887.

Dated: May 11, 2016.

Anita L. Davis,

Chief, Enforcement and Community Engagement Branch, Superfund Division.

[FR Doc. 2016–13585 Filed 6–7–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2016–0234; FRL–9947–47–OAR]

Access by EPA Contractors to Information Claimed as Confidential Business Information (CBI) Submitted Under Title II of the Clean Air Act and Related Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA's Office of Transportation and Air Quality (OTAQ) plans to authorize various contractors to access information which will be submitted to the EPA under the Clean Air Act that may be claimed as, or may be determined to be, confidential business information (CBI). Access to this information, which is related to registration of fuels and fuel additives under 40 CFR part 79; various fuels reporting programs under 40 CFR part 80; and reporting of various greenhouse gas reporting items under the mandatory reporting rule of 40 CFR part 98, subparts A, LL and MM, will begin on June 20, 2016.

In addition to fuels-related reporting, this notice addresses access to information related to vehicles and engine compliance under 40 CFR part 86, 40 CFR part 600, 40 CFR part 1033, 40 CFR part 1036, 40 CFR part 1039, 40 CFR part 1042, 40 CFR part 1045, 40 CFR part 1048, 40 CFR part 1051, 40 CFR part 1054, 40 CFR part 1060, and 40 CFR part 1068.

DATES: The EPA will accept comments on this Notice through June 13, 2016.

FOR FURTHER INFORMATION CONTACT: Anne-Marie Pastorkovich, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., MC 6405A, Washington, DC 20004; telephone number: 202–343–9623; fax number: 202–343–2800; email address: *pastorkovich.anne-marie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this notice apply to me?

This action is directed to the general public. However, this action may be of particular interest to parties who submit information to the EPA regarding the following programs: Fuel and fuel additive registration (40 CFR part 79); and various fuels programs including reformulated gasoline, anti-dumping, gasoline sulfur, ultra low sulfur diesel, benzene content, and the renewable fuel standard (40 CFR part 80). Parties who may be interested include refiners, importers, producers of renewable fuels, parties who engage in Renewable Identification Number (RIN) transactions, and all those who submit compliance reports to the EPA via any method (*e.g.,* via EPA's Central Data Exchange, or CDX), including those who engage in reporting via the EPA Moderated Transaction System (EMTS).

This action may be of particular interest to parties such as suppliers of coal-based liquid fuels and suppliers of petroleum products, as described in 40 CFR part 98 subparts LL and MM, respectively. (40 CFR part 98, subpart A contains general provisions related to registration and reporting.) Parties who may be interested in this notice include refiners, importers, and exporters of these products.

This action may also be of particular interest to parties who submit information to EPA's vehicle and engine compliance information system, commonly known as the Verify system, under 40 CFR part 86, 40 CFR part 600, 40 CFR part 1033, 40 CFR part 1036, 40 CFR part 1039, 40 CFR part 1042, 40 CFR part 1045, 40 CFR part 1048, 40 CFR part 1051, 40 CFR part 1054, 40 CFR part 1060, and 40 CFR part 1068.

This **Federal Register** notice may be of particular relevance to parties that submit or have submitted data under the above-listed programs or systems. Since other parties may also be interested, the Agency has not attempted to describe all the specific parties that may be affected by this action. If you have further questions regarding the applicability of this action to a particular party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

II. How can I get copies of this document and other related information?

A. Electronically

The EPA has established a public docket for this **Federal Register** notice under Docket EPA–HQ–OAR–2016–0234.

All documents in the docket are identified in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, such as confidential business information (CBI) or other information for which disclosure is restricted by statute. Certain materials, such as copyrighted material, will only be available in hard copy at the EPA Docket Center.

B. EPA Docket Center

Materials listed under Docket EPA–HQ–OAR–2016–0234 will be available for public viewing at the EPA Docket Center Reading Room, WJC West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

III. Description of Programs and Potential Disclosure of Information Claimed as Confidential Business Information (CBI) to Contractors

The EPA's Office of Transportation and Air Quality (OTAQ) has responsibility for protecting public health and the environment by regulating air pollution from motor vehicles, engines, and the fuels used to operate them, and by encouraging travel choices that minimize emissions. In order to implement various Clean Air Act programs, and to permit regulated entities flexibility in meeting regulatory requirements (*e.g.,* compliance on average), we collect compliance reports and other information from them. The information submitted may be claimed as confidential business information (CBI). Information submitted under such a claim is handled in accordance with EPA's regulations at 40 CFR part 2, subpart B and in accordance with the EPA procedures, including comprehensive system security plans (SSPs) that are consistent with those regulations. When the EPA has determined that disclosure of information claimed as CBI to contractors is necessary, the corresponding contract must address the appropriate use and handling of the information by the contractor and the contractor must require its personnel who require access to information claimed as CBI to sign written non-disclosure agreements before they are granted access to data.

In accordance with 40 CFR 2.301(h), we have determined that the contractors, subcontractors, and grantees (collectively referred to as ''contractors'') listed below require access to CBI submitted to us under the Clean Air Act and in connection with various programs related to fuels, vehicles, and engines and we are providing notice and an opportunity to comment. OTAQ collects this data in order to monitor compliance with Clean Air Act programs and, in many cases, to permit regulated parties flexibility in meeting regulatory requirements. For example, data that may contain CBI are collected to register fuels and fuel additives prior to introduction into commerce. Certain programs are designed to permit regulated parties an

opportunity to comply on average, or to engage in transactions using various types of credits. For example, OTAQ collects information about batches of gasoline that refiners produce to ensure compliance with reformulated gasoline standards and this batch information may be claimed as CBI. We are issuing this **Federal Register** notice to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the contractors identified below on a need-to-know basis.

Under Contract Number GSGD0022, CGI Incorporated, located at 1100 New Jersey Avenue SE., Suite 800, Washington DC 20003, and its subcontractor, CACI International Incorporated, located at 4114 Legato Road, Fairfax, VA 22033, provide report processing, program support, technical support, and information technology services that involve access to information claimed as CBI related to 40 CFR part 79, 40 CFR part 80, and 40 CFR part 98 subparts A, LL, and MM. Access to data, including information claimed as CBI, will commence on June 20, 2016 and will continue until March 26, 2019. If the contract is extended, this access will continue for the remainder of the contract without further notice.

This **Federal Register** notice is in addition to our **Federal Register** notice entitled ''Access by EPA Contractors to Information Claimed as Confidential Business Information (CBI) Submitted under Title II of the Clean Air Act and Related Regulations,'' which was published on December 21, 2015.[1] The access described under that notice and affecting submissions under 40 CFR part 79, 40 CFR part 80, and 40 CFR part 98 subparts A, LL, and MM continues and is unaffected by this notice.

Furthermore, in accordance with 40 CFR 2.301(h), we have determined that the contractors, subcontractors, and grantees (collectively referred to as ''contractors'') listed below require access to CBI submitted to us under the Clean Air Act and in connection with the vehicle and engine compliance information system, commonly known as the Verify system, under 40 CFR part 86, 40 CFR part 600, 40 CFR part 1033, 40 CFR part 1036, 40 CFR part 1039, 40 CFR part 1042, 40 CFR part 1045, 40 CFR part 1048, 40 CFR part 1051, 40 CFR part 1054, 40 CFR part 1060, and 40 CFR part 1068. We are providing notice and an opportunity to comment. We are issuing this **Federal Register** notice to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the contractors identified below on a need-to-know basis.

Under Contact Number GS00Q09BGD0025, CSC Government Solutions LLC, located at 1500 Conference Center Drive, Chantilly, VA 20151 provides Information Technology (IT) support services related to the EPA's vehicle and engine compliance information system, commonly known as the Verify system, under 40 CFR part 86, 40 CFR part 600, 40 CFR part 1033, 40 CFR part 1036, 40 CFR part 1039, 40 CFR part 1042, 40 CFR part 1045, 40 CFR part 1048, 40 CFR part 1051, 40 CFR part 1054, 40 CFR part 1060, and 40 CFR part 1068. Access by this contractor to vehicle and engine data and information under this contract, including information claimed as CBI, has been ongoing since March 10, 2016 and is expected to continue for the remainder of the contract without further notice.

Parties who want further information about this **Federal Register** notice or about OTAQ's disclosure of information claimed as CBI to contactors may contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection; confidential business information.

Dated: June 2, 2016.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2016–13580 Filed 6–7–16; 8:45 am]

BILLING CODE 6560–50–P

[1] See 80 FR 79329 (December 21, 2015). The notice may be viewed at the **Federal Register** Web page at *https://federalregister.gov/a/2015-32011.*

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0014; FRL–9943–68]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel and amend pesticide registrations. The amendment request also would delete one glyphosate use on seed production of creeping bentgrass with a Roundup Ready Gene. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before December 5, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0014, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Attention: Miguel Zavala.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Miguel Zavala, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0504; email address: *zavala.miguel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This notice announces receipt by EPA of requests from registrants and stakeholders to cancel and delete certain product registrations and amend certain uses of the chemicals listed in Unit II., Tables 1 and 2, registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). These registrations are listed in sequence by registration number (or company number and 24(c) number).

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order canceling and amending the affected registrations.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Active ingredient
100–1244	Banner Dry Maxx	Propiconazole.
3525–71	Utikem Black Algae Killer	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
3525–91	Coastal Mind Disinfectant	Alkyl* dimethyl benzyl ammonium chloride *(58%C14, 28%C16, 14%C12).
3525–96	Jolt Pool Shock Treatment for Control of Algae	Lithium hypochlorite.
3525–109	Algaecide & Pool Conditioner	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
9198–205	Andersons Golf Products Turf Enhancer 2SC	Paclobutrazol.
10324–56	Maquat 256	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) and Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14).
35935–41	Dithiopyr Technical	Dithiopyr.
35935–49	Dynamo Dithiopyr Technical	Dithiopyr.
35935–75	Dithiopyr Technical	Dithiopyr.
53883–207	Dithiopyr 0.13% Plus Fertilizer	Dithiopyr.
53883–208	Dithiopyr 0.25% Plus Fertilizer	Dithiopyr.
53883–209	Dithiopyr 0.172% Plus Fertilizer	Dithiopyr.
53883–210	Dithiopyr 0.107% Plus Fertilizer	Dithiopyr.
53883–211	Dithiopyr 0.06% Plus Fertilizer	Dithiopyr.
53883–212	Dithiopyr 0.086% Plus Fertilizer	Dithiopyr.
53883–213	Dithiopyr 0.1% Plus Fertilizer	Dithiopyr.
53883–268	Dithiopyr Concentrate for Fertilizer	Dithiopyr.
53883–311	Quali-Pro Dithiopyr 2L	Dithiopyr.
66222–143	Alias 4F Flowable Insecticide	Imidacloprid.
81002–1	Chlorine Free Splashes Algicide	Dialkyl* methyl benzyl ammonium chloride *(60% C14, 30% C16, 5% C18, 5% C12) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
AZ–080006	Brigade 2EC Insecticide/Miticide	Bifenthrin.
CA–030012	Clinch Ant Bait	Abamectin.
MA–080001	Dupont Manzate Pro-Stick Fungicide	Mancozeb.
ND–110002	Moncut 70-DF	Flutolanil.
ND–130003	F7583-3 Herbicide	S-Metolachlor and Sulfentrazone.
OR–100003	TOPSIN M WSB	Thiophanate-methyl.
OR–080035	Callisto Herbicide	Mesotrione.
OR–100010	Callisto Herbicide	Mesotrione.
SD–130008	SC 547 Herbicide	Tembotrione and Thiencarbazone-methyl.
WA–090003	Topsin M 70WP	Thiophanate-methyl.
WA–930026	Rovral 4 Flowable Fungicide	Iprodione.
WA–940006	Rovral 4 Flowable Fungicide	Iprodione.
WA–960027	Rovral 4 Flowable Fungicide	Iprodione.
TX–100019	Devrinol 50-DF Selective Herbicide	Napropamide.

TABLE 2—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Product name	Active ingredient	Uses to be deleted
524–475	Roundup Ultra Herbicide	Glyphosate—isopropylammonium	Seed production of creeping bentgrass with a Roundup Ready Gene.

Table 3 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1 and Table 2 of this unit, in sequence by EPA company number, which corresponds to the first part of the EPA product registration number under FIFRA section 3 (7 U.S.C. 136a), or by 24(c) number under FIFRA section 24(c) (7 U.S.C. 136v(c)), of the products listed in Tables 1 and 2 of this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA company No.	Company name and address
100, CA030012, OR080035, OR100010.	Syngenta Crop Protection, LLC., 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300.
524	Monsanto Company, 1300 I Street NW., Suite 450 East, Washington, DC 20005–7211.
3525	Qualco, Inc., 225 Passaic Street, Passaic, NJ 07055.
9198	The Andersons Lawn Fertilizer Division, Inc., 521 Illinois Avenue, P.O. Box 119, Maumee, OH 43537.
10324	Mason Chemical Company, 723 W. Algonquin Road, Suite B, Arlington Heights, IL 60005.
35935	Nufarm Limited (Agent to Nufarm Americas, Inc.), 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27560.
53883	Control Solutions, Inc., 5903 Genoa-Red Bluff Road, Pasadena, TX 77507–1041.
66222	Makhteshim Agan of North America, Inc., 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
81002	Splashes, Inc., 90 Boroline Road, Allendale, NJ 07401.
AZ080006, ND130003	FMC Corp., 1735 Market Street, Room 1971, Philadelphia, PA 19103.
MA080001, TX100019	United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
ND 110002	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
OR100003, WA090003	Nippon Soda Co., Ltd., 88 Pine Street, 14th Floor, New York, NY 10005.
SD130008, WA930026, WA940006, WA960027.	Bayer Cropscience, LP, 2 T.W. Alexander Drive, P.O., Box 12014, Research Triangle Park, NC 27709.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 3 of Unit II have not requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 180-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the product has been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

A. Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

B. For the product identified in Table 2 of Unit II., in a letter dated October 22, 2015, the registrant states that the use to be deleted was never registered for use in any state, added to the master label, or used for its stated purpose. Therefore, because there are no existing stocks, EPA anticipates that no existing stocks provision to sell, distribute, or use existing stocks is needed for the registrant or persons other than the registrant.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 1, 2016.

Michael Goodis,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2016–13581 Filed 6–7–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Comment on the Exposure Draft Titled Tax Expenditures: Management's Discussion and Analysis and Disclosure Requirements

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued an exposure draft titled *Tax Expenditures: Management's Discussion and Analysis and Disclosure Requirements.*

The exposure draft is available on the FASAB Web site at *http://*

www.fasab.gov/documents-for-comment/. Copies can be obtained by contacting FASAB at (202) 512–7350.

Respondents are encouraged to comment on any part of the exposure draft. Written comments are requested by September 15, 2016, and should be sent to *fasab@fasab.gov* or Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW., Suite 6814, Mail Stop 6H19, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW., Mail Stop 6H19, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: June 2, 2016.

Wendy M. Payne,

Executive Director.

[FR Doc. 2016–13559 Filed 6–7–16; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0895, 3060–0953, 3060–1214]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before July 8, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0895.

Title: Numbering Resource Optimization, CC Docket No. 99–200.

Form Number: FCC Form 502.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities and state, local or tribal government.

Number of Respondents and Responses: 2,793 respondents; 10,165 responses.

Estimated Time per Response: 1 hour–44.4 hours.

Frequency of Response: On occasion and semi-annual reporting requirements and recordkeeping requirement.

Obligation To Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 153, 154, 201–205 and 251 of the Communications Act of 1934.

Total Annual Burden: 132,384 hours.

Total Annual Cost: $3,465,570.20.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Disaggregated, carrier specific forecast and utilization data will be treated as confidential and will be exempt from public disclosure under 5 U.S.C. 552(b)(4).

Needs and Uses: The data collected on FCC Form 502 helps the Commission manage the ten-digit North American Numbering Plan (NANP), which is currently being used by the United States and 19 other countries. Under the Communications Act of 1934, as amended, the Commission was given ''exclusive jurisdictions over those portions of the North American Numbering Plan that pertains to the United States.'' Pursuant to that authority, the Commission conducted a rulemaking in March 2000 that the Commission found that mandatory data collection is necessary to efficiently monitor and manage numbering use. The Commission is revising this information collection to implement its newly adopted rules that allow interconnected Voice over Internet Protocol (VoIP) providers to obtain numbering resources directly from the Numbering Administrators. The following information collection requirements will be contained in this collection:

(1) Utilization/Forecast Report;

(2) Application for initial numbering resource;

(3) Application for growth numbering resources;

(4) Recordkeeping requirement;

(5) Notifications by state commissions;

(6) Demonstration to state commission; and

(7) Petitions for additional delegation of numbering authority.

The data from this information collection is used by the FCC, state regulatory commissions, and the NANPA to monitor numbering resource utilization by all carriers using the resource and to project the dates of area code and NANP exhaust.

OMB Control Number: 3060–0953.

Title: Sections 95.1111 and 95.1113, Frequency Coordination/Coordinator, Wireless Medical Telemetry Service (WMTS).

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents and Responses: 3,000 respondents; 3.000 responses.

Estimated Time per Response: 1–5 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154 and 303.

Total Annual Burden: 15,000 hours.

Total Annual Cost: $750,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No information is requested that would require assurance of confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as a revision after this 60 day comment period to obtain the full three-year clearance from them.

On August 11, 2015 the Federal Communications Commission released a Report and Order, *Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Bands, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37, and Amendment of Part 74 of the Commission's Rules for Low Power Auxiliary Stations in the Repurposed 600 MHz Band and 600 MHz Duplex Gap,* ET Docket No 14–165, GN Docket No. 12–268, FCC 15–99, which modifies Commission rules for unlicensed wireless devices and wireless microphones in the reconstituted TV bands and the new 600 MHz band.

On June 12, 2000, the Commission released a Report and Order, ET Docket No. 99–255, FCC 00–211, which allocated spectrum and established rules for a ''Wireless Medical Telemetry Service'' (WMTS) that allows potentially life-critical equipment to operate in an interference-protected basis. Medical telemetry equipment is used in hospitals and health care facilities to transmit patient measurement data such as pulse and respiration rate to a nearby receiver, permitting greater patient mobility and increased comfort. The Commission designated a frequency coordinator, who maintains a database of all WMTS equipment. All parties using equipment in the WMTS are required to coordinate/register their operating frequency and other relevant technical operating parameters with the designated coordinator. The database provides a record of the frequencies used by each facility or device to assist parties in selecting frequencies to avoid interference. Without a database, there would be no record of WMTS usage because WMTS transmitters will not be individually licensed. The designated frequency coordinator has the responsibility to maintain an accurate engineering database of all WMTS transmitters, identified by location (coordinates, street address, and building), operating frequency, emission type and output power, frequency range(s) used, modulation scheme used, effective radiated power, number of transmitters in use at the health care facility at the time of registration, legal name of the authorized health care provider, and point of contact for authorized health care provider. The frequency coordinator will make the database available to WMTS users, equipment manufacturers and the public. The coordinator will also notify users of potential frequency conflicts. In addition, in order to receive interference protection, parties operating WMTS networks on channel 37 shall notify one of the white space database administrators of their operating location pursuant to §§ 15.713(j)(11) and 15.715(p) of that chapter.

OMB Control Number: 3060–1214.

Title: Direct Access to Numbers Order, FCC 15–70, Conditions.

Form Number: N/A.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 13 respondents; 13 responses.

Estimated Time per Response: 10–20 hours.

Frequency of Response: One-time application, on-going and bi-annual reporting requirements.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in 47 U.S.C 251(e)(1).

Total Annual Burden: 520 hours.

Total Annual Costs: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: If respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: In a June 2015 Report and Order (FCC 15–70), the Commission established the Numbering Authorization Application process, which allows interconnected VoIP providers to apply for a blanket authorization from the FCC that, once granted, will allow them to demonstrate that they have the authority to provide service in specific areas, thus enabling them to request numbers directly from the Numbering Administrators. This collection covers the information and certifications that applicants must submit in order to comply with the Numbering Authorization Application process. The data, information, and documents acquired through this collection will allow interconnected VoIP providers to obtain numbers with minimal burden or delay while also preventing providers from obtaining numbers without first demonstrating that they can deploy and properly utilize such resources. This information will also help the Federal Communications Commission (FCC) protect against number exhaust while promoting competitive neutrality among traditional telecommunications carriers and interconnected VoIP providers by allowing both entities to obtain numbers directly from the Numbering Administrators. It will further help the FCC to maintain efficient utilization of numbering resources and ensure that telephone numbers are not being stranded.

Federal Communications Commission.

Gloria J. Miles,

Federal Register *Liaison Officer, Office of the Secretary.*

[FR Doc. 2016–13486 Filed 6–7–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012415.

Title: COSCON/UASC Slot Charter Agreement Asia—USEC.

Parties: COSCO Container Lines Co. Ltd. and United Arab Shipping Co, S.A.G.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 799 9th Street NW., Suite 500; Washington, DC 20001.

Synopsis: The agreement authorizes UASC to charter space from COSCON in

the trade between the U.S. East Coast on the one hand, and China (including Hong Kong) and Panama on the other hand.

Agreement No.: 012416.

Title: Network Shipping Ltd./Cool Carriers AB Space Charter and Sailing Agreement.

Parties: Network Shipping Ltd. and Cool Carriers AB.

Filing Party: Antonio Fernandez; Network Shipping; 241 Sevilla Ave.; Coral Cables, FL 33134.

Synopsis: The agreement authorizes Network Shipping to charter space to Cool Carriers AB for the carriage of empty refrigerated containers in the trade between Port Hueneme, CA and Ecuador, and in the trade between Port Gloucester, NJ and Costa Rica.

By Order of the Federal Maritime Commission.

Dated: June 3, 2016.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2016–13532 Filed 6–7–16; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–0493]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

2017 and 2019 National Youth Risk Behavior Surveys (OMB Control No. 0920–0493)—Reinstatement with change—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this request is to obtain OMB approval to reinstate with change, the data collection for the National Youth Risk Behavior Survey (YRBS), a school-based survey that has been conducted biennially since 1991. OMB approval for the 2013 YRBS and 2015 YRBS expired September 30, 2015 (OMB Control No. 0920–0493). CDC seeks a three-year approval to conduct the YRBS in Spring 2017 and Spring 2019. Minor changes incorporated into this reinstatement request include: An updated title for the information collection to accurately reflect the years in which the survey will be conducted, minor changes to the data collection instrument, and a reclassification of urban status for schools based on a different variable now present in the commercially available sampling frame.

The YRBS assesses priority health risk behaviors related to the major preventable causes of mortality, morbidity, and social problems among both youth and young adults in the United States. Data on health risk behaviors of adolescents are the focus of approximately 65 national health objectives in Healthy People 2020, an initiative of the U.S. Department of Health and Human Services (HHS). The YRBS provides data to measure 20 of the health objectives and one of the Leading Health Indicators established by Healthy People 2020. In addition, the YRBS can identify racial and ethnic disparities in health risk behaviors. No other national source of data measures as many of the Healthy People 2020 objectives addressing adolescent health risk behaviors as the YRBS. The data also will have significant implications for policy and program development for school health programs nationwide.

In Spring 2017 and Spring 2019, the YRBS will be conducted among nationally representative samples of students attending public and private schools in grades 9–12. Information supporting the YRBS also will be collected from state-, district-, and school-level administrators and teachers. The table below reports the number of respondents annualized over the 3-year project period.

There are no costs to respondents except their time. The total estimated annualized burden hours are 7,822.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
State Administrators	State-level Recruitment Script for the Youth Risk Behavior Survey.	17	1	30/60
District Administrators	District-level Recruitment Script for the Youth Risk Behavior Survey.	80	1	30/60
School Administrators	School-level Recruitment Script for the Youth Risk Behavior Survey.	133	1	30/60
Teachers	Data Collection Checklist for the Youth Risk Behavior Survey.	435	1	15/60
Students	Youth Risk Behavior Survey	10,129	1	45/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–13572 Filed 6–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–16APN; Docket No. CDC–2016–0051]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection plan entitled ''Generic Clearance for Lyme and other Tickborne Diseases Knowledge, Attitudes, and Practices Surveys.'' CDC's Division of Vector-Borne Diseases (DVBD), National Center for Emerging and Zoonotic Diseases (NCEZID) will use the plan to conduct survey development, pre-testing activities, and survey administration actions in 2016–2018. The data collection for which approval is sought will allow DVBD to use survey results to inform implementation of future TBD prevention interventions.

DATES: Written comments must be received on or before August 8, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0051 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Generic Clearance for Lyme and other Tickborne Diseases Knowledge, Attitudes, and Practices Surveys—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) Division of Vector-Borne Diseases (DVBD) and other programs working on tickborne diseases (TBDs) is requesting a three year approval for a generic clearance to conduct TBD prevention studies to include include knowledge, attitudes, and practices (KAP) surveys regarding ticks and tickborne diseases (TBDs) among residents and businesses offering pest control services in Lyme disease endemic areas of the United States. The data collection for which approval is sought will allow DVBD to use survey results to inform implementation of future TBD prevention interventions.

TBDs are a substantial and growing public health problem in the United States. From 2009–2014, over 200,000 cases of TBDs were reported to CDC, including cases of anaplasmosis, babesiosis, ehrlichiosis, Lyme disease, Rocky Mountain spotted fever, and tularemia (CDC, 2010, 2013). Lyme disease leads in number of cases with over 33,000 confirmed and probable cases reported in 2014. In addition, several novel tickborne pathogens have recently been found to cause human disease in the United States.

Factors driving the emergence of TBDs are not well defined and current prevention methods have been insufficient to curb the increase in cases. Data is lacking on how often certain prevention measures are used by individuals at risk as well as what the barriers to using certain prevention measure are.

The primary target population for these data collections are individuals and their household members who are at risk for TBDs associated with *I. scapularis* ticks and who may be exposed to these ticks residentially, recreationally, and/or occupationally. The secondary target population includes owners and employees of

businesses offering pest control services to residents in areas where *I. scapularis* ticks transmit diseases to humans. Specifically, these target populations include those residing or working in the 14 highest incidence states for Lyme disease (CT, DE, ME, MD, MA, MN, NH, NJ, NY, PA, RI, VT, VA, WI). We anticipate conducting one to two surveys per year, for a maximum of six surveys conducted over a three year period. Depending on the survey, we aim to enroll 500–10,000 participants per study. It is expected that we will need to target recruitment to about twice as many people as we intend to enroll.

Surveys may be conducted daily, weekly, monthly, or bi-monthly per participant for a defined period of time (whether by phone or web survey), depending on the survey or study. The surveys will range in duration from approximately 5–30 minutes. Each participant may be surveyed 1–64 times in one year; this variance is due to differences in the type of information collected for a given survey.

Specific burden estimates for each study and each information collection instrument will be provided with each individual project submission for OMB review. The maximum estimated, annualized burden hours are 98,833 hours. There is no cost to respondents other than their time.

Insights gained from KAP surveys will aid in prioritizing which prevention methods should be evaluated in future randomized, controlled trials and ultimately help target promotion of proven prevention methods that could yield substantial reductions in TBD incidence.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents *	Number of responses per respondent *	Average burden per response (in hours) *	Total burden hours
General public, individuals or households.	Screening instrument	20,000	1	15/60	5,000
	Consent form	10,000	1	20/60	3,333
	Introductory Surveys	10,000	1	30/60	5,000
	Monthly surveys	10,000	12	15/60	30,000
	Final surveys	10,000	1	30/60	5,000
	Daily surveys	10,000	60	5/60	50,000
Pest Control Operators	PCO Survey	1,000	1	30/60	500
Total					98,833

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–13573 Filed 6–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–16KA]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Monitoring and Coordinating Personal Protective Equipment (PPE) in Healthcare to Enhance Domestic Preparedness for Ebola Response—New—National Center for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) has the authority under the Occupational Safety and Health Act [29 CFR 671] to ''develop recommendations for health and safety standards'', to ''develop information on safe levels of exposure to toxic materials and harmful physical agents and substances'', and to ''conduct research on new safety and health problems''. There is growing national concern for better understanding of the particular personal protective equipment (PPE) needs of healthcare workers to ensure the health and safety of this workforce during times of pandemic disease or bioterrorist threat. The use and effectiveness of the proper PPE are paramount to the management and mitigation of the effects of a disaster. NIOSH is requesting a three approval from OMB to develop an ongoing Personal Protective Technology (PPT) sentinel surveillance system in the

hospital setting that will document data used to evaluate and monitor use and effectiveness for PPE usage in healthcare workers including Ebola protection.

NIOSH conducted a pilot study and partnered with four hospitals where respirator-related data were collected from a variety of stakeholders (less than 10 respondents) including Infection Control, Occupational Health, Emergency Preparedness, Environmental Health & Safety, and Purchasing. Surveillance metrics were established and shared with pilot participants on a regular basis throughout the pilot. Partners identified key performance indicators that this data might provide, such as the average number of respirators used per isolation order in the hospital, and identification of stakeholders and protocols impacting effective respirator use. Recommendations were made for monitoring schedules and survey improvement. The data collected during the pilot study provided experience and knowledge of respirator selection, availability, fit testing, usage patterns, outcomes, and confounders of respirator use and effectiveness at the four participating hospitals.

NIOSH now seeks approval to execute an approach for a minimum viable product (MVP) multi-hospital (15–20), real-time monitoring phase. The 15–20 facilities shall reflect the tiered approach recommended by CDC involving Frontline Healthcare Facilities, Ebola Assessment Hospitals and Ebola Treatment Centers. The effort shall be built upon the experience and knowledge obtained from the pilot projects, and shall be structured as the next step in the establishment of a national system to monitor usage and training for PPE used to protect against the Ebola virus based on current CDC recommendations. With this effort, the contractor shall develop and deploy the system to include a contingent of the domestic acute healthcare facilities in this three tier approach. The system content shall include status information for all PPE categories identified for protection against the hazards of Ebola exposure. The system will use a general interface engine designed to accept, validate, and process data from multiple, disparate sources.

The system will be developed to identify PPE replenishment needs to facilitate local, state, and eventually regional resource sharing and local purchasing as needed. It will also be compatible with PPE previously used at these facilities to allow seamless continuity of patient care and worker protection. This capacity will offer a much-improved process for monitoring and maintaining appropriate PPE supplies through the constant, real-time monitoring of user demand, thus avoiding the misdirection of tens of millions of dollars' worth of respirators and other PPE to facilities that may not use distributed supplies due to a mismatch between products typically used and the supplies provided.

Respondents targeted for this study include hospital managers (also referred to in some cases as executives, coordinators or supervisors). These individuals are responsible for the day-to-day administration and/or implementation of the MVP. It is estimated that a sample of up to 20 hospitals will agree to participate among a variety of Ebola and Frontline treatment facilities. Participation will require no more than 255 minutes of workers' time per quarter. The hospitals will complete a baseline form and will also send quarterly and annual response as explained in the table below.

The Emergency and Crisis surveys are administered to hospitals via text message. The emergency survey is designed for an event spanning multiple weeks (*e.g.,* pandemic). There are 3 preset questions that are related to Ebola and PPT supply concerns. The crisis survey is designed for an unanticipated scenario in which we may need to push ad hoc questions on a daily basis to hospitals. They will only be administered in a non-routine situation. During the 3 year approval period, we will test/train hospitals on each survey. However, they will not be part of the regular data collection.

Estimated Annualized Burden Hours

The baseline form is completed once by each hospital as they come onboard. It is the same as the annual survey but will take longer to complete, because all fields in the collection tool will need to be entered. The annual form is completed by the hospitals in each year following their start and will take about a third of the time to complete than the baseline form. Example: Year one, 5 hospitals on start (baseline); year two, 6 new (baseline) and 5 from previous year (annual); year three, 9 new (baseline) and 11 from previous years (annual). Thus, taking the sum of the previous year hospitals (annual) leads to a total of 16. The quarterly form is completed by all participating hospitals four times a year. The emergency and crisis forms are completed by all participating hospitals as needed, but at least once for training, and uses the annualized number in the baseline form.

The total estimated annual burden hours are 230. There are no costs to respondents other than their time.

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Hospital	Baseline	7	1	8
Hospital	Annual	5	1	3
Hospital	Quarterly	12	4	3
Hospital	Emergency	7	4	15/60
Hospital	Crisis	7	7	10/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–13570 Filed 6–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–16KB]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Measuring Perceived Self-Escape Competencies among Underground Mineworkers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

After a thorough review of United States' underground coal mine emergency escape preparedness and response, the National Academy of Sciences (NRC, 2013) has emphasized the need to improve underground mineworkers' ability to successfully escape a mine emergency. Specifically, several mine disasters of 2006 raised a number of issues about mine emergency preparedness and response particularly as they relate to self-escape competencies. The resulting federal regulations under the MINER Act of 2006, now require all underground coal miners receive SCSR and escapeway training quarterly throughout the year and new emergency communications and tracking systems have been mandated and installed in underground coal mines.

While such improvements may have better prepared underground miners to self-escape, it has become increasingly apparent that further research and development of new strategies is needed to enhance miner emergency preparedness, particularly as it relates to competency training and assessment. A review of various reports on coal mine emergency response [MSTTC 2006, U.S. GAO 2007, West Virginia Mine Safety Technology Task Force 2006, McAteer 2006a, McAteer 2006b] offered a number of recommendations for improving training that resulted in the identification of three areas of critical importance: (1) Evaluation of competencies; (2) improved training methods; and (3) new training content.

The NAS report echoed these findings and offered more specific recommendations for future training research and development. Specifically related to this information collection project, the NAS recommends that NIOSH identify critical self-escape competencies as well as any existing gaps in miners' knowledge, skills, abilities and other attributes (KSAOs) to be addressed through future training research and development. The specific aim of the work proposed is designed, in part, to respond to the recommendations set forth by the authors of the NAS report.

The information collected will have practical utility in efforts to enhance the ability of miners to successfully escape from underground coal mines in the event of an emergency by identifying gaps in perceived competence in specific knowledge and skills in moving through the mine, avoiding dangers, and using protective equipment. This information collection will contribute to our understanding of actual miner capabilities from the perspective of the mineworkers themselves.

NIOSH researchers will visit up to 20 mine sites to obtain informed consent from volunteer participants and administer a short paper and pencil survey. The survey will include demographic questions and 27 questions related to participants' perceived confidence in their own ability to escape their mine in the event of an emergency. Data collection will occur above ground at a variety of coal mines (and other above ground facilities) to gather information from a diverse sample of mines to better reflect the variability (*e.g.,* size, mining method, geographic location) that exists among mines and could impact self-escape procedures and resource availability. Variability in mineworker and mining site characteristics is key to generating a cross-sectional snapshot of current mineworkers' perceived self-escape competence and may reveal any potential relationships among these characteristics and perceived competence in a variety of self-escape KSAOs.

This data collection will occur once for each mine site over the next two years (after OMB approval) and is designed to gather information not previously available. This data collection instrument is not being used in any other research. The results produced are expected to lead to recommendations for emphasis in new and/or existing KSAO training and preparation as well as to inform future self-escape training and research development.

This data will be used by NIOSH's Office of Mining Safety and Health Research to improve underground coal miners' self-escape competence.

NIOSH proposes this exploratory two-year study to better characterize the current state of miner self-escape competence and to answer the following questions:

- What gaps exist between what miners are required to do for self-escape and their perceptions of their actual capabilities?
- How might miner demographics and mine-specific characteristics (*e.g.,* size, mining method, and geographic location) relate to perceived competence in self-escape KSAOs?

Based on the results of this and other concurrent exploratory work, interventions to increase mine escape competencies will be improved and/or developed and assessed which could lead to more standardized self-escape training and assessment throughout the industry.

Participants will be underground mining personnel drawn from a variety of operating underground coal mines. Descriptive and inferential statistics on data obtained from the survey will be used quantify miner self-escape competence and to identify any statistically significant relationships among aggregated miner characteristics and perceived competence.

Finally, the data will serve as a gross baseline measure of miner self-escape competence to be directly compared to future data collection utilizing the identical data collection instrument. The total estimated annualized burden hours are 67.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Mine Worker	Survey	400	1	10/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–13571 Filed 6–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5520–CN]

Announcement of Requirements and Registration for ''A Bill You Can Understand'' Design and Innovation Challenge: Help Patients Understand Their Medical Bills and the Financial Aspect of Health; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice; correction.

SUMMARY: This document corrects technical errors that appeared in the notice published in the May 10, 2016 **Federal Register** entitled ''Announcement of Requirements and Registration for ''A Bill You Can Understand'' Design and Innovation Challenge: Help Patients Understand Their Medical Bills and the Financial Aspect of Health.''

DATES: Effective June 3, 2016.

FOR FURTHER INFORMATION CONTACT: Ben Shannon, Communications Advisor, Office of the Assistant Secretary for Public Affairs, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20210, phone (202) 205–2819, email *ben.shanon@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016–10980 (81 FR 28873 through 28875), the notice entitled ''Announcement of Requirements and Registration for ''A Bill You Can Understand'' Design and Innovation Challenge: Help Patients Understand Their Medical Bills and the Financial Aspect of Health,'' there were a number of technical errors that are identified and corrected in section III., the Correction of Errors. The provisions in this correction document are effective as if they had been included in the document published May 10, 2016. Accordingly, the corrections are effective June 3, 2016.

II. Summary of Errors

On page 28874, under the heading ''A. Subject of the Challenge Competition'', and page 29975, under the heading ''F. Basis Upon Which the Winners Will Be Selected'', we inadvertently omitted clarifying language.

III. Correction of Errors

In FR Doc. 2016–10980 of May 10, 2016 (81 FR 28873), make the following corrections:

1. On page 28874, first column; fourth paragraph, under the heading ''A. Subject of the Challenge Competition'', lines 8 through 16, the sentences ''Participants will be asked to submit entries that improve both the design of the medical bill and patient experience of the medical billing process. Submissions will include the (1) design concept for the redesigned medical bill, (2) journey map or wireframe for the redesigned patient experience,'' are corrected to read ''Participants will be asked to submit entries that improve both the design of the medical bill and other materials and tools the patient sees and interacts with as well as the patient experience of the medical billing process. Submissions will include the: (1) Design concept for the redesigned medical bill and other materials and tools the patient sees and interacts with, (2) journey map of the redesigned patient experience,''

2. On page 28875, first column; in the paragraph following the heading; ''F. Basis Upon Which the Winners Will Be Selected'', the bullet point statements:

''• Contains all Necessary Data and Information.

• Usefulness and Understandability of Patient Facing Materials (Bill or Otherwise).

• Adherence to Plain Language Guidelines.

• Transparency of Data (Including How the Data is Translated and Explained).'' are corrected to read:

''• Most Appropriate Use of Data and Information.

• Addresses Top Concerns Associated with the Current Medical Billing Experience.

• Usefulness and Understandability of Patient Facing Materials (Bill or Otherwise).

• Use of Human-Centered Design Process in Creation of Concept.

• Use of Plain Language.''

Dated: June 2, 2016.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2016–13548 Filed 6–3–16; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Cellular, Tissue and Gene Therapies Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Cellular, Tissue and Gene Therapies Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues.

At least one portion of the meeting will be closed to the public.

DATES: The meeting will be held on July 26, 2016, from 1 p.m. to 3:30 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Janie Kim or Denise Royster, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993–0002, 301–796–9016 or 240–402–8158, email: *Janie.Kim@fda.hhs.gov* or *Denise.Royster@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.

SUPPLEMENTARY INFORMATION:

Agenda: On July 26, 2016, the committee will meet by teleconference. In open session, the committee will hear updates of research programs in the Laboratory of Biological Chemistry and Laboratory of Molecular Oncology, Division of Biotechnology Review and Research 1 and 4, Office of Biotechnology Products, Center for Drug Evaluation and Research, FDA.

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: On July 26, 2016, from 1 p.m. to 3:30 p.m., the meeting is open to the public. 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 July 12, 2016. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 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 July 1, 2016. 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 July 5, 2016.

Closed Committee Deliberations: On July 26, 2016, from 2:30 p.m. to 3:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The committee will discuss reports of intramural research programs and make recommendations regarding personnel staffing decisions.

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 disabilities. If you require accommodations due to a disability, please contact Janie Kim 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: June 2, 2016.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2016–13457 Filed 6–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0134]

Agency Information Collection Activities; Proposed Collection; Comment Request; Mammography Quality Standards Act Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the estimated reporting, recordkeeping, and third-party disclosure burden associated with the Mammography Quality Standards Act requirements.

DATES: Submit either electronic or written comments on the collection of information by August 8, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your

comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N–0134 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Mammography Quality Standards Act Requirements.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Mammography Quality Standards Act Requirements—21 CFR Part 900—OMB Control Number 0910–0309—Extension

The Mammography Quality Standards Act (Pub. L. 102–539) requires the establishment of a Federal certification and inspection program for mammography facilities; regulations and standards for accreditation and certification bodies for mammography facilities; and standards for mammography equipment, personnel, and practices, including quality assurance. The intent of these regulations is to assure safe, reliable, and accurate mammography on a nationwide level. Under the regulations, as a first step in becoming certified, mammography facilities must become accredited by an FDA-approved accreditation body (AB). This requires undergoing a review of their clinical images and providing the AB with information showing that they meet the equipment, personnel, quality assurance, and quality control standards, and have a medical reporting and recordkeeping program, a medical outcomes audit program, and a consumer complaint mechanism. On the basis of this accreditation, facilities are then certified by FDA or an FDA-approved State certification agency and must prominently display their certificate. These actions are taken to ensure safe, accurate, and reliable mammography on a nationwide basis.

The following sections of Title 21 of the Code of Federal Regulations (CFR) are not included in the burden tables because they are considered usual and customary practice and were part of the standard of care prior to the implementation of the regulations. Therefore, they resulted in no additional burden: 21 CFR 900.12(c)(1) and (3) and 900.3(f)(1). Section 900.24(c) was also not included in the burden tables because if a certifying State had its approval withdrawn, FDA would take over certifying authority for the affected facilities. Because FDA already has all the certifying State's electronic records, there wouldn't be an additional reporting burden.

We have rounded numbers in the ''Total Hours'' column in all three burden tables. (Where the number was a portion of 1 hour, it has been rounded to 1 hour. All other ''Total Hours'' have been rounded to the nearest whole number.)

We do not expect any respondents for § 900.3(c) because all four ABs are approved until April 2020.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

Activity/21 CFR section/FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours [1]	Total capital costs (in dollars)	Total operating and maintenance costs (in dollars)
Notification of intent to become an AB—900.3(b)(1)	0.33	1	0.33	1	1		
Application for approval as an AB; full [2]—900.3(b)(3)	0.33	1	0.33	320	106	10,000	
Application for approval as an AB; limited [3]—900.3(b)(3)	5	1	5	30	150		
AB renewal of approval—900.3(c)	0	1	0	15	1		
AB application deficiencies—900.3(d)(2)	0.1	1	0.1	30	3		
AB resubmission of denied applications—900.3(d)(5)	0.1	1	0.1	30	3		
Letter of intent to relinquish accreditation authority—900.3(e)	0.1	1	0.1	1	1		
Summary report describing all facility assessments—900.4(f)	330	1	330	7	2,310		77,600
AB reporting to FDA; facility [4]—900.4(h)	8,654	1	8,654	1	8,654		4,327
AB reporting to FDA; AB [5]—900.4(h)	5	1	5	10	50		
AB financial records—900.4(i)(2)	1	1	1	16	16		
Former AB new application—900.6(c)(1)	0.1	1	0.1	60	6		
Reconsideration of accreditation following appeal—900.15(d)(3)(ii)	1	1	1	2	2		
Application for alternative standard—900.18(c)	2	1	2	2	4		
Alternative standard amendment—900.18(e)	10	1	10	1	10		
Certification agency application—900.21(b)	0.33	1	0.33	320	106		208
Certification agency application deficiencies—900.21(c)(2)	0.1	1	0.1	30	3		
Certification electronic data transmission—900.22(h)	5	200	1000	0.083	83	30,000	
Changes to standards—900.22(i)	2	1	2	30	60		20
Certification agency minor deficiencies—900.24(b)	1	1	1	30	30		
Appeal of adverse action taken by FDA—900.25(a)	0.2	1	0.2	16	3		
Inspection fee exemption—FDA Form 3422	700	1	700	0.25	175		
Total					11,777	40,000	82,155

[1] Total hours have been rounded.
[2] One time burden.
[3] Refers to accreditation bodies applying to accredit specific full-field digital mammography (FFDM) units.
[4] Refers to the facility component of the burden for this requirement.
[5] Refers to the AB component of the burden for this requirement.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours [1]	Total capital costs (in dollars)	Total operating and maintenance costs (in dollars)
AB transfer of facility records—900.3(f)(1)	0.1	1	0.1	0	1		
Consumer complaints system; AB—900.4(g)	5	1	5	1	5		
Documentation of interpreting physician initial requirements—900.12(a)(1)(i)(B)(*2*)	87	1	87	8	696		
Documentation of interpreting physician personnel requirements—900.12(a)(4)	8,654	4	34,616	1	34,616		

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN—Continued

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours [1]	Total capital costs (in dollars)	Total operating and maintenance costs (in dollars)
Permanent medical record—900.12(c)(4)	8,654	1	8,654	1	8,654	28,000	
Procedures for cleaning equipment—900.12(e)(13)	8,654	52	450,008	0.083	37,351		
Audit program—900.12(f)	8,654	1	8,654	16	138,464		
Consumer complaints system; facility—900.12(h)(2)	8,654	2	17,308	1	17,308		
Certification agency conflict of interest—900.22(a)	5	1	5	1	5		
Processes for suspension and revocation of certificates—900.22(d)	5	1	5	1	5		
Processes for appeals—900.22(e)	5	1	5	1	5		
Processes for additional mammography review—900.22(f)	5	1	5	1	5		
Processes for patient notifications—900.22(g)	3	1	3	1	3		30
Evaluation of certification agency—900.23	5	1	5	20	100		
Appeals—900.25(b)	5	1	5	1	5		
Total					237,223	28,000	30

[1] Total hours have been rounded.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours [2]	Total operating and maintenance costs (in dollars)
Notification of facilities that AB relinquishes its accreditation—900.3(f)(2)	0.1	1	0.1	200	20	50
Clinical images; facility [3]—900.4(c), 900.11(b)(1) and (2)	2,885	1	2,885	1.44	4,154	
Clinical images; AB [4]—900.4(c)	5	1	5	416	2,080	230,773
Phantom images; facility [3]—900.4(d), 900.11(b)(1) and (2)	2,885	1	2,885	0.72	2,077	
Phantom images; AB [4]—900.4(d)	5	1	5	208	1,040	
Annual equipment evaluation and survey; facility [3]—900.4(e), 900.11(b)(1) and (2)	8,654	1	8,654	1	8,654	8,654
Annual equipment evaluation and survey; AB [4]—900.4(e)	5	1	5	1,730	8,650	
Provisional mammography facility certificate extension application—900.11(b)(3)	0	1	0	0.5	1	
Mammography facility certificate reinstatement application—900.11(c)	312	1	312	5	1,560	24,000,000
Lay summary of examination—900.12(c)(2)	8,654	5,085	44,055,590	0.083	3,652,464	
Lay summary of examination; patient refusal [5]—900.12(c)(2)	87	1	87	0.5	44	
Report of unresolved serious complaints—900.12(h)(4)	20	1	20	1	20	
Information regarding compromised quality; facility [3]—900.12(j)(1)	20	1	20	200	4,000	300
Information regarding compromised quality; AB [4]—900.12(j)(1)	20	1	20	320	6,400	600
Patient notification of serious risk—900.12(j)(2)	5	1	5	100	500	19,375
Reconsideration of accreditation—900.15(c)	5	1	5	2	10	

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]—Continued

Activity/21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours [2]	Total operating and maintenance costs (in dollars)
Notification of requirement to correct major deficiencies—900.24(a)	0.4	1	0.4	200	80	68
Notification of loss of approval; major deficiencies—900.24(a)(2)	0.15	1	0.15	100	15	25.50
Notification of probationary status—900.24(b)(1)	0.3	1	0.3	200	60	51
Notification of loss of approval; minor deficiencies—900.24(b)(3)	0.15	1	0.15	100	15	25.50
Total					3,691,842	24,259,921

[1] There are no capital costs associated with this collection of information.
[2] Total hours have been rounded.
[3] Refers to the facility component of the burden for this requirement.
[4] Refers to the AB component of the burden for this requirement.
[5] Refers to the situation where a patient specifically does not want to receive the lay summary of her exam.

Dated: June 2, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–13522 Filed 6–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2014–E–2351, FDA–2014–E–2352, and FDA–2014–E–2350]

Determination of Regulatory Review Period for Purposes of Patent Extension; ALPROLIX

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ALPROLIX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of patents which claim that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by August 8, 2016. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by December 5, 2016. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2014–E–2351, FDA–2014–E–2352, and FDA–2014–E–2350 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; ALPROLIX.''

Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets

Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product ALPROLIX (Coagulation Factor IX (Recombinant), Fc Fusion Protein). ALPROLIX is a recombinant DNA derived, coagulation Factor IX concentrate indicated in adults and children with hemophilia B for control and prevention of bleeding episodes, perioperative management, and routine prophylaxis to prevent or reduce the frequency of bleeding episodes. Subsequent to this approval, the USPTO received patent term restoration applications for ALPROLIX (U.S. Patent Nos. 7,348,004, 7,862,820, and 8,329,182) from Biogen Idec Hemophilia Inc., and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated May 11, 2015, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of ALPROLIX represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ALPROLIX is 2,223 days. Of this time, 1,767 days occurred during the testing phase of the regulatory review period, while 456 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* February 27, 2008. FDA has verified the applicant's claim that the date the investigational new drug application (IND) became effective was on February 27, 2008.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* December 28, 2012. FDA has verified the applicant's claim that the biologics license application (BLA) for ALPROLIX (BLA 125444/0) was initially submitted on December 28, 2012.

3. *The date the application was approved:* March 28, 2014. FDA has verified the applicant's claim that BLA 125444/0 was approved on March 28, 2014.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 1,326 days, 465 days, or 818, days, respectively, of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see **DATES**). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see **DATES**) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: June 2, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–13526 Filed 6–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2014–E–2365, FDA–2014–E–2368, FDA–2014–E–2367, and FDA–2014–E–2366]

Determination of Regulatory Review Period for Purposes of Patent Extension; ELOCTATE

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ELOCTATE and is publishing this notice of that determination as required

by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of patents which claim that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by August 8, 2016. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by December 5, 2016. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2014–E–2365, FDA–2014–E–2368, FDA–2014–E–2367, and FDA–2014–E–2366 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; ELOCTATE.'' Received comments will be placed in the dockets and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product ELOCTATE (BDD-rFVIIIFc). ELOCTATE is a recombinant DNA derived, antihemophilic factor indicated in adults and children with Hemophilia A (congenital Factor VIII deficiency) for control and prevention of bleeding episodes, perioperative management, and routine prophylaxis to prevent or reduce the frequency of bleeding episodes. Subsequent to this approval, the USPTO received patent term restoration applications for ELOCTATE (U.S. Patent Nos. 7,348,004; 7,404,956; 7,862,820; and 8,329,182) from Biogen Idec Hemophilia Inc., and the USPTO requested FDA's assistance in

determining this patent's eligibility for patent term restoration. In a letter dated October 19, 2015, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of ELOCTATE represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ELOCTATE is 1,695 days. Of this time, 1,239 days occurred during the testing phase of the regulatory review period, while 456 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* October 17, 2009. The applicant claims December 10, 2009, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was October 17, 2009, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262*): March 8, 2013. The applicant claims March 7, 2013, as the date the biologics license application (BLA) for ELOCTATE (BLA 125487/0) was initially submitted. However, FDA records indicate that BLA 125487/0 was submitted on March 8, 2013.

3. *The date the application was approved:* June 6, 2014. FDA has verified the applicant's claim that BLA 125487/0 was approved on June 6, 2014.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,049 days, 740 days, 854 days, or 500 days, respectively, of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see **DATES**). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see **DATES**) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: June 2, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–13521 Filed 6–7–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Training in Primary Care Medicine and Dentistry; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD).

Dates and Times: June 28, 2016 (Day 1—8:30 a.m.–5:00 p.m., EST), June 29, 2016 (Day 2—8:30 a.m.–5:00 p.m., EST).

Place: In-Person Meeting with Webinar/Conference Call Component, 5600 Fishers Lane, Room 5E29, Rockville, MD 20857.

Status: The meeting will be open to the public.

Purpose: The ACTPCMD provides advice and recommendations on a broad range of issues relating to grant programs authorized by title VII, part C, sections 747 and 748 of the Public Health Service Act (PHSA). During the June 28–29, 2016 meeting, the Committee will discuss the topic for the 14th report which is divided into two areas: a) Review of Primary Care Medicine and Dentistry Programs under title VII, part C of the PHSA and b) the ways to integrate behavioral health content into primary care medicine and dentistry training programs.

Agenda: The purpose of the Advisory Committee meeting is two-fold: a) Review the activities under sections 747 and 748, part C of title VII of the PHS Act including performance measures, longitudinal evaluations, and appropriation levels for these programs; and b) review ways that behavioral health content could be integrated into primary care education and training. The Committee has identified that integrating behavioral health services into primary care settings offers a promising, viable, and efficient way of ensuring that people have access to needed behavioral health services. The ACTPCMD's reports are submitted to the Secretary of the Department of Health and Human Services; the Committee on Health, Education, Labor, and Pensions of the Senate; and the Committee on Energy and Commerce of the House of Representatives. The ACTPCMD agenda will be available 2 days prior to the meeting on the HRSA Web site at *http://www.hrsa.gov/advisorycommittees/bhpradvisory/actpcmd/index.html.*

SUPPLEMENTARY INFORMATION: Requests to make oral comments or provide written comments to the ACTPCMD should be sent to Dr. Joan Weiss, Designated Federal Official, using the address and phone number below. Individuals who plan to make oral comments or provide written comments to the ACTPCMD should notify Dr. Weiss at least 3 days prior to the meeting, using the address or phone number below. Members of the public will have the opportunity to provide comments. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Dr. Weiss at least 10 days prior to the meeting.

- The conference call-in number is 1–800–619–2521. The passcode is 9271697.
- The webinar link is *https://hrsa.connectsolutions.com/actpcmd.*

Contact: Anyone requesting information regarding the ACTPCMD should contact Dr. Joan Weiss, Designated Federal Official within the Bureau of Health Workforce, Health Resources and Services Administration, in one of three ways: (1) Send a request to the following address: Dr. Joan Weiss, Designated Federal Official, Bureau of Health Workforce, Health Resources and Services Administration, 5600 Fishers Lane, Room 15N39, Rockville, Maryland 20857; (2) call (301) 443–0430; or (3) send an email to *jweiss@hrsa.gov.*

Jason Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–13523 Filed 6–7–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting Notice for the President's Advisory Council on Faith-Based and Neighborhood Partnerships

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the President's Advisory Council on Faith-based and Neighborhood Partnerships announces the following webinar:

Name: President's Advisory Council on Faith-based and Neighborhood Partnerships Council Meetings

Time and Date: Wednesday, June 22, 2016 3:00 p.m.–5:00 p.m. (EDT)

Public Webinar: The conference call will be available to the public through a webinar system. Register to participate in the conference call on Wednesday, June 22 at the Web site *https://attendee.gotowebinar.com/register/2826503921415476996*

Status: Conference call limited only by lines available.

Purpose: The Council brings together leaders and experts in fields related to the work of faith-based and neighborhood organizations in order to: Identify best practices and successful modes of delivering social services; evaluate the need for improvements in the implementation and coordination of public policies relating to faith-based and other neighborhood organizations; and make recommendations for changes in policies, programs, and practices. The charge for this Council focuses on steps the government should take to reduce poverty and inequality and create opportunity for all, including changes in policies, programs, and practices that affect the delivery of services by faith-based and community organizations and the needs of low-income and other underserved persons.

Contact Person for Additional Information: Please contact Ben O'Dell for any additional information about the President's Advisory Council meeting at *partnerships@hhs.gov*

Agenda: Opening and Welcome from the Chairperson and Executive Director for the President's Advisory Council for Faith-based and Neighborhood Partnership; Presentation of additional language and recommendations for the report; Deliberation of recommendations (if necessary); Conclusion from Chairperson and Executive Director

Public Comment: There will be an opportunity for public comment at the end of the meeting. Desire to make comments and questions should be sent in advance to *partnerships@hhs.gov.*

Dated: June 2, 2016.

Ben O'Dell,

Associate Director for Center for Faith-based and Neighborhood Partnerships at U.S. Department of Health and Human Services.

[FR Doc. 2016–13540 Filed 6–7–16; 8:45 am]

BILLING CODE 4154–07–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Meredyth M. Forbes, Albert Einstein College of Medicine: Based on an assessment conducted by the Albert Einstein College of Medicine (AECM), an admission from the Respondent, and additional analysis conducted by ORI in its oversight review, ORI found that Ms. Meredyth M. Forbes, former Graduate Student, AECM, engaged in research misconduct in research supported by National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH), grants R01 GM089979, T32 GM007491, R01 GM55101, and R01 GM88202 and National Institute of Child Health and Human Development (NICHD), NIH, grant T32 HD007502.

ORI found that Respondent engaged in research misconduct by intentionally falsifying and/or fabricating data reported in the following three (3) published papers and four (4) meeting presentations:

- *Development.* In press, published online, Dec 23, 2015; doi:10.1242/dev.129023 (hereafter referred to as the ''December 2015 *Development* paper'')
- *Cell Reports* 12:49–57, 2015 (hereafter referred to as the ''*Cell Reports* paper'')
- *Development* 142(15):2704–18, 2015 Aug 1 (hereafter referred to as the ''August 2015 *Development* paper'')
- ''Maternal dazap2 regulates germ granules via counteracting Dynein in zebrafish primordial germ cells.'' Laboratory Presentation, January 28, 2015 (hereafter referred to as the ''*Lab Presentation* 2015'')
- ''Maternal dazap2 regulates germ granule formation in zebrafish primordial germ cells.'' Presented at the Germ Cells, Cold Spring Harbor, NY, October 2014, NYC-Wide Stem Cell Event, ''Stem Cells in the City,'' NY, November 2014, Mid-Atlantic Regional Zebrafish Meeting, PA, November 2014, and New York Metropolitan Zebrafish Meeting, Cornell, NY, January 2015 (hereafter referred to as ''*Poster 1,* 2014–2015'')
- ''Cytoskeleton, microtubules, centrosomes, germline cyst, Bucky ball, oocytes.'' Poster presented at the Mid-Atlantic Regional Zebrafish Meeting, Bronx, NY, July 2015 (hereafter referred to as ''*MARZ* 2015'')
- ''Bucky ball associates with the centrosome and promotes microtubule cytoskeleton rearrangements to establish oocyte polarity in zebrafish.'' Poster presented at the American Society for Cell Biology (ASCB) Meeting, San Diego, CA, December 2015 (hereafter referred to as ''*ACSB* 2015'')

ORI found that Respondent intentionally falsified and/or fabricated data for germ-cell development in zebrafish Dazap2 maternal-effect mutants (MDazap2) in one (1) paper and two (2) presentations when the mutants were not produced nor the data derived from them.

Specifically, Respondent:

- falsified thirty-eight (38) fluorescent image panels by drawing staining in PhotoShop and falsely labeling them in Figures 1F, 1G, 2A, 2C, 2E, 2F, 2G, 3A, 3D, 4A, and S2A in the *Cell Reports* paper and included some of the same images in seven (7) figures in *Lab Presentation* 2015 and in six (6) figures in *Poster 1* 2014–2015
- fabricated numbers for data presented in ten (10) graphs in Figures 1L, 2B, 2D, 2H, 3B, 4B, 4C, S2B, S2C, and S3B in the *Cell Reports* paper and included some of the same graphs in seven (7) figures in *Lab Presentation* 2015 and in six (6) figures in *Poster 1* 2014–2015

ORI found that Respondent intentionally fabricated and/or falsified data for zebrafish embryogenesis and oocyte polarity in two (2) papers and two (2) presentations when the data were not obtained from actual experiments.

Specifically, Respondent:

- falsified twenty-four (24) fluorescent image panels by drawing staining in Photoshop and falsely labeling them in Figures 5B, 5C, 5D, 5E, 7A, 7B, 7D, 8A, 8B, 9A, and 9B in the August 2015 *Development* paper and included some of the same images in four (4) figures in the *ASCB* 2015 poster and in two (2) figures in the *MARZ* 2015 poster
- fabricated numbers for data presented in eight (8) graphs and one (1) illustration in Figures 5F, 7C, 7E, 8C, 8F–I, 9C, and 9D in the December 2015 *Development* paper and Figure 2F in the August 2015 *Development* paper and included some of the same graphs in four (4) figures in the *ASCB* 2015 poster and in two (2) figures in the *MARZ* 2015 poster

Ms. Forbes has entered into a Voluntary Exclusion Agreement (Agreement) and has voluntarily agreed for a period of three (3) years, beginning on May 6, 2016:

(1) to exclude herself from any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government referred to as ''covered transactions'' pursuant to HHS' Implementation (2 CFR part 376 *et seq.*) of OMB Guidelines to Agencies on Governmentwide Debarment and Suspension, 2 CFR part 180 (collectively the ''Debarment Regulations'');

(2) that she will neither apply for nor permit her name to be used on any application, proposal, or other request for funds to the United States Government or any of its agencies, as defined in the Debarment Regulations; Respondent will further ensure that during the period of the voluntary exclusion, she will neither receive nor be supported by funds of the United States Government and its agencies made available through grants, subgrants, cooperative agreements, contracts, or subcontracts, as discussed in the Debarment Regulations; and

(3) to exclude herself from serving in any advisory capacity to the U.S. Public Health Service (PHS) including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

Kathryn M. Partin,

Director, Office of Research Integrity.

[FR Doc. 2016–13541 Filed 6–7–16; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health

AGENCY: Office of the Surgeon General of the United States Public Health Service, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with Section 10(a) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.), notice is hereby given that a meeting is scheduled for the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health (the ''Advisory Group''). This meeting will be open to the public. Information about the Advisory Group and the agenda for this meeting can be obtained by accessing the following Web site: *http://www.surgeongeneral.gov/priorities/prevention/advisorygrp/index.html.*

DATES: The meeting will be held on July 11, 2016, from 3:00 p.m.–5:00 p.m. EST.

ADDRESSES: This meeting will be held via teleconference. Teleconference information and the exact meeting time will be published closer to the meeting date at: *http://www.surgeongeneral.gov/priorities/prevention/advisorygrp/index.html.*

FOR FURTHER INFORMATION CONTACT: Office of the Surgeon General, U.S. Department of Health and Human Services, 200 Independence Ave. SW.; Washington, DC 20201; 202–205–9517; *npcsupport@cdc.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Group is a non-discretionary federal advisory committee that was initially established under Executive Order 13544, dated June 10, 2010, to comply with the statutes under Section 4001 of the Patient Protection and Affordable Care Act, Public Law 111–148. The Advisory Group was terminated on September 30, 2012, by Executive Order 13591, dated November 23, 2011. Authority for the Advisory Group to be re-established was given under Executive Order 13631, dated December 7, 2012. Authority for the Advisory Group to continue to operate until September 30, 2017, was given under Executive Order 13708, dated September 30, 2015.

The Advisory Group was established to assist in carrying out the mission of the National Prevention, Health Promotion, and Public Health Council (the Council). The Advisory Group provides recommendations and advice to the Council. It is authorized for the Advisory Group to consist of not more than 25 non-federal members. The Advisory Group currently has 21 members who were appointed by the President. The membership includes a diverse group of licensed health professionals, including integrative health practitioners who have expertise in (1) worksite health promotion; (2) community services, including community health centers; (3) preventive medicine; (4) health coaching; (5) public health education; (6) geriatrics; and (7) rehabilitation medicine.

A meeting description and relevant materials will be published closer to the meeting date at: *http://www.surgeongeneral.gov/priorities/prevention/advisorygrp/.*

Members of the public have the opportunity to participate in the meeting and/or provide comments to the Advisory Group on July 11, 2016. Public comment will be limited to 3 minutes per speaker. Individuals who wish to participate in the meeting and/or provide comments must register by 12:00 p.m. EST on July 5, 2016. In order to register, individuals must send their full name and affiliation via email to *npcsupport@cdc.gov.* Individuals who need special assistance and/or accommodations, *i.e.,* sign language interpretation or other reasonable accommodations, should indicate so when they register. Members of the public who wish to have materials distributed to the Advisory Group members at these scheduled meetings should submit those materials when they register.

Dated: May 23, 2016.

Brigette Ulin,

Designated Federal Officer, Advisory Group on Prevention, Health Promotion, and Integrative and Public Health, Office of the Surgeon General.

[FR Doc. 2016–13558 Filed 6–7–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive License: The Development of an Anti-GPC3 Chimeric Antigen Receptor (CAR) Based on HN3 for the Treatment of Human Cancers

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR Part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in:

Intellectual Property:

U.S. Provisional Patent Application 61/477,020 entitled ''Human Monoclonal Antibody Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–US–01], PCT Patent Application PCT/US2012/034186 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–PCT–02], Chinese Patent Application 201280029201.3 entitled ''Human

Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–CN–03], European Patent 2699603 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–EP–04], and validated in France, Germany and the United Kingdom, United States Patent 9,206,257 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–US–05], United States Patent Application 14/837,903 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–US–06], European Patent Application 15188264.4 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–EP–07], United States Patent Application 15/090,873 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–US–12], Chinese Patent Application 201610290837.3 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–CN–13], European Patent Application 16166924.7 entitled ''Human Monoclonal Antibodies Specific for Glypican-3 And Use Thereof'' [HHS Ref. E–130–2011/0–EP–14], and all continuing U.S. and foreign patents/patent applications for the technology family, to Lentigen Technology, Inc.

The patent rights to these inventions have been assigned to and/or exclusively licensed to the Government of the United States of America.

The prospective exclusive licensed territory may be the United States, Australia, Canada, the European Union, Russia, China, Hong Kong, Japan, Taiwan, South Korea and Singapore, and the field of use may be limited to: ''The development of a glypican-3 (GPC3) chimeric antigen receptor (CAR)-based immunotherapy using autologous (meaning one individual is both the donor and the recipient) primary human lymphocytes (T cells or NK cells) transfected with a lentiviral or retroviral vector, wherein the vector expresses a CAR having (1) a single antigen specificity and (2) comprising at least: (a) The complementary determining region (CDR) sequences of the anti-GPC3 antibody known as HN3; and (b) a T cell signaling domain; for the prophylaxis and treatment of GPC3-expressing cancers.''

DATES: Only written comments and/or applications for a license which are received by the NCI Technology Transfer Center on or before June 23, 2016 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: David A. Lambertson, Ph.D., Senior Licensing and Patenting Manager, National Cancer Institute, 9609 Medical Center Drive, Rm. 1–E530 MSC9702, Rockville, MD 20850–9702, Email: *david.lambertson@nih.gov.*

SUPPLEMENTARY INFORMATION: This invention concerns an anti-GPC3 (Glypican-3) chimeric antigen receptor (CAR) and methods of using the CAR for the treatment of GPC3-expressing cancers. GPC3 is a cell surface antigen that is preferentially expressed on certain types of cancer cells, particularly liver cancers such as hepatocellular carcinoma (HCC). The anti-GPC3 CARs of this technology contain (1) antigen recognition sequences that bind specifically to GPC3 and (2) signaling domains that can activate the cytotoxic functions of a T cell. The anti-GPC3 CAR can be transduced into T cells that are harvested from a donor, followed by (a) selection and expansion of the T cells expressing the anti-GPC3 CAR, and (b) reintroduction of the T cells into the patient. Once the anti-GPC3 CAR-expressing T cells are reintroduced into the patient, the T cells can selectively bind to GPC3-expressing cancer cells through its antigen recognition sequences, thereby activating the T cell through its signaling domains to selectively kill the cancer cells. Through this mechanism of action, the selectivity of the a CAR allows the T cells to kill cancer cells while leaving healthy, essential cells unharmed. This can result in an effective therapeutic strategy with fewer side effects due to less non-specific killing of cells.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404.7. The prospective exclusive license may be granted unless the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.7 within fifteen (15) days from the date of this published notice.

Complete applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: June 3, 2016.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2016–13530 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Clinical Trial Pilot Studies (R34).

Date: June 27, 2016.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0287, *carolko@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: June 2, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13500 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health National Heart, Lung, and Blood Institute; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; REDS–III Central Laboratory Task Order 3.

Date: June 28, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: William J Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–435–0725, johnsonwj@nhlbi.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 2, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13501 Filed 6–7–16; 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 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 Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Review.

Date: June 15, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville; Jefferson-Adam Conference Room; 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Barbara J. Nelson, Ph.D.; Scientific Review Officer Office of Scientific Review; National Center for Advancing Translational Sciences (NCATS), National Institutes of Health; 6701 Democracy Blvd., Democracy 1, Room 1080, Bethesda, MD 20892–4874; 301–435–0806; *nelsonbj@mail.nih.gov.*

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. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 2, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13494 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodevelopment and Function.

Date: June 15, 2016.

Time: 11:30 a.m. to 2:00 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: 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.*

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.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–358—Molecular and Cellular Causal Aspects of Alzheimer's Disease.

Date: June 30, 2016.

Time: 10:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Oral and Dental Research.

Date: June 30, 2016.

Time: 1:00 p.m. to 5:00 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: Aruna K. Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–435–6809, *beheraak@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.

Date: July 5–6, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Amalfi Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Differentiation and Integration of Stem Cells (Embryonic and Induced-Pluripotent) Into Developing or Damaged Tissues.

Date: July 5, 2016.

Time: 1:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 2, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13497 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: Oligodendrocyte Differentiation and Myelination.

Date: June 9, 2016.

Time: 12:30 p.m. to 2:00 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: Carole L Jelsema, Ph.D., Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov.*

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. 93.306, 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: June 2, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13498 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing and/or co-development in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing and/or co-development.

ADDRESSES: Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD 20850–9702.

FOR FURTHER INFORMATION CONTACT: Information on licensing and co-development research collaborations, and copies of the U.S. patent applications listed below may be obtained by contacting: Attn. Invention Development and Marketing Unit, Technology Transfer Center, National Cancer Institute, 9609 Medical Center Drive, Mail Stop 9702, Rockville, MD 20850–9702, Tel. 240–276–5515 or email *ncitechtransfer@mail.nih.gov.* A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Title of invention: Therapeutic antibody-drug conjugates targeting CD56-positive tumors.

Description of Technology: CD56, also known as neural cell adhesion molecule (NCAM), is a glycoprotein that plays an important role in normal physiological functions. It is expressed in low levels in normal cells such as neurons, glia, skeletal muscle and natural killer cells but is highly expressed on a variety of cancerous cells including neuroblastoma, small-cell lung cancer, and multiple myeloma. In neuroblastoma, patients undergo a very aggressive treatment regimen that still results in a high mortality rate. Many neuroblastomas have increased expression of CD56 which represents a possible therapeutic target for these aggressive and hard to treat cancers.

Researchers at the National Cancer Institute's Cancer and Inflammation Program, in collaboration with the Children's Hospital of Philadelphia (CHOP), have developed antibody-drug conjugates (ADC) that incorporate one of two novel human CD56 antibodies, known as m900 and m906, in combination with a known cytotoxic drug, pyrrolobenzodiazepine (PBD). Other PBD–ADCs have demonstrated the ability to overcome resistance in some multi-drug resistant cancers which could present additional benefits for the ADCs of the current invention. The m900 and m906 ADCs have been shown to induce cell death and CD56 down regulation *in vitro* in four different CD56-positive neuroblastoma cell lines. Preliminary studies in animals have also shown promising results, and additional *in vivo* work is ongoing.

Potential Commercial Applications:

—Therapeutic for the treatment of neuroblastoma

—Therapeutic for the treatment of other CD56-positive cancers including small cell lung cancer, multiple myeloma, pancreatic cancer, ovarian cancer, acute myeloid leukemia, NK–T lymphoma, and neuroendocrine cancer

Value Proposition:

—Fully human antibodies (m900 or m906) targeting CD56 may offer improved properties over the humanized antibody IMGN901

Development Stage: Pre-clinical (in vivo validation).

Inventor(s): Dimiter S. Dimitrov (NCI), Yang Feng (NCI), Zhongyu Zhu (NCI), John M. Maris (Children's Hospital of Philadelphia).

Intellectual Property: HHS Reference No. E–221–2015/0–US–01. US Provisional Application No. 62/199,707, filed July 31, 2015 entitled ''ANTIBODY–DRUG CONJUGATES FOR TARGETING CD56–POSITIVE TUMORS''.

Publications: Feng, Y, et al. Differential killing of CD56-expressing cells by drug-conjugated human antibodies targeting membrane-distal and membrane-proximal non-overlapping epitopes. mAbs, 2016;

24:1–12. DOI: 10.1080/19420862.2016.1155014.

Related Technologies: E–142–2014 (CD56-targeting antibodies and related CARs).

Collaboration Opportunity: Researchers at the NCI seek licensing and/or co-development research collaborations for development of antibody-drug conjugates for the treatment of cancer.

Contact Information: Requests for copies of the patent application or inquiries about licensing, research collaborations, and co-development opportunities should be sent to John D. Hewes, Ph.D., email: *john.hewes@nih.gov.*

Dated: June 2, 2016.

John D. Hewes,

Technology Transfer Specialist, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2016–13499 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel; Review of Outstanding New Environmental Scientist Review Meeting.

Date: June 28, 2016.

Time: 8:00 a.m. to 6:00 p.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: Janice B. Allen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

(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: June 3, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13529 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; 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 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: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIH Pathway to Independence Award (Parent K99/R00).

Date: July 12, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Xinli Nan, Ph.D., Scientific Review Officer, National Institute on Minority Health and Health Disparities, National Institutes of Health, Scientific Review Branch, OERA, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 594–7784, *Xinli.Nan@nih.gov.*

Dated: June 1, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13503 Filed 6–7–16; 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 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Research Project Grants.

Date: June 13, 2016.

Time: 1:30 p.m. to 2:30 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: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

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.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity Research.

Date: June 20, 2016.

Time: 4:00 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: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard,

Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

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.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR16–034: NIDDK Ancillary Studies on Chronic Kidney Disease.

Date: June 21, 2016.

Time: 4:00 p.m. to 5:30 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: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov.*

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.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Health Disparities Studies.

Date: June 23, 2016.

Time: 12:00 p.m. to 1:00 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: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Planning NIDDK Clinical Studies.

Date: June 24, 2016.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA DK16–012 Developmental Centers for Interdisciplinary Research in Benign Urology (P20).

Date: June 27, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Gastroparesis Clinical Centers.

Date: July 8, 2016.

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: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, Room 7017, 6707 Democracy Boulevard, Bethesda, MD 20892, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; CLAIM—A Randomized Trial Comparing Laparoscopic Sleeve Gastrectomy to Intensive Medical Weight Loss Therapy for Achieving Body Mass Index Goals for Renal Transplant Candidacy.

Date: July 12, 2016.

Time: 3:00 p.m. to 4:00 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: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Multi-Center Clinical Study (U34).

Date: July 13, 2016.

Time: 11:00 a.m. to 12:30 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: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7111, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.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: June 1, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13502 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–AG–16–020 Impact of Aging on Currently Employed Animal Models of Disease and Chronic Conditions: Demonstration Projects.

Date: June 27, 2016.

Time: 8:00 a.m. to 6:00 p.m..

Agenda: To review and evaluate grant applications.

Place: Embassy Suite, 900 10th Street NW., Washington, DC 20001.

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncological Sciences.

Date: June 27–28, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington, DC,, 923 16th Street NW., Washington, DC 20006.

Contact Person: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 4192, MSC 7806, Bethesda, MD 20892, 301–451–4467, *howardz@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–13–009: Secondary Dataset Analyses in Heart, Lung and Blood Diseases and Sleep Disorders.

Date: June 29, 2016.

Time: 8:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Karin F Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 254–9975, *helmersk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Systems Science and Health in the Behavioral and Social Science.

Date: June 29, 2016.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering Sciences.

Date: June 29, 2016.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–374: Modeling Social Behavior.

Date: June 29, 2016.

Time: 2:00 p.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: Ping Wu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Kidney and Urology.

Date: June 30, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Place: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Aiping Zhao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 2188, MSC7818, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; OBT–AREA Review.

Date: June 30, 2016.

Time: 12:00 p.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: Manzoor Zarger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: June 1, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13496 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Center for Advancing Translational Sciences Advisory Council, June 13, 2016, 12:00 p.m. to June 13, 2016, 03:00 p.m., National Institutes of Health, 9800 Medical Center Drive, Located in the Board Room, Rockville, MD 20852 which was published in the **Federal Register** on May 27, 2016, 81FR33679.

Amendment to include a discussion of Proposed Office of Policy, Communications and Strategic Alliances Organizational Change. The meeting is partially Closed to the public. Any interested person may file written comments about the proposed reorganization with the committee by forwarding the statement to *NCATSReorgComments@nih.gov* by June 30, 2016. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: June 3, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–13531 Filed 6–7–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; 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.

Proposed Project: Interviews With Grantees Integrating Behavioral Health Treatment, Prevention, and HIV Medical Care Services (OMB NO. 0930–0336)—Reinstatement

SAMHSA is requesting Office of Management and Budget (OMB) approval to conduct in-person Site Visit Interviews with Minority AIDS Initiative—Continuum of Care (MAI–CoC) Grantees Integrating Behavioral Health Treatment, Prevention, and HIV Medical Care Services. This reinstatement request utilizes revised versions of the site visit interview guide approved under the Minority AIDS Initiative—Targeted Capacity Expansion (MAI–TCE) Grantees Integrating HIV Primary Care, Substance Abuse, and Behavioral Health Services (OMB NO. 0930–0336). The two rounds of interviews (baseline and follow-up) target the collection of programmatic-level data (*e.g.,* community context, organizational structure, and staffing and staff development, services and service model, outreach, referral and enrollment into services, services/care

coordination and integration and funding for integrated services and program successes and challenges) through one-on-one and group interviews with grantees who are part of the MAI–CoC program.

The goal of the MAI–CoC project is to integrate behavioral health treatment, prevention, and HIV and Hepatitis medical care services for racial/ethnic minority populations at high risk for behavioral health disorders who are also at high risk for or living with HIV and Hepatitis. The program also supports other priority populations including men who have sex with men (MSM) and bisexual men, transgender persons, and people with substance use disorder. The program is primarily intended for substance use disorder treatment and community mental health providers to provide coordinated and integrated services through the collocation and/or integration of behavioral health treatment and HIV and Hepatitis medical care. Interviews conducted with MAI–CoC grantees during the two rounds of site visits are an integral part of evaluation efforts to: (1) Assess the impact of the SAMHSA-funded HIV and Hepatitis programs in: Reducing behavioral health disorders and HIV and Hepatitis infections; increasing access to substance use disorder and mental disorder treatment and care; improving behavioral and mental health outcomes; and reducing HIV and Hepatitis-related disparities; (2) Describe the different integrated behavioral health and medical program models; and (3) Determine which program types or models are most effective in improving behavioral health and clinical outcomes.

Over the four-year project, SAMHSA will conduct two rounds of these in-person site visits (baseline and follow-up) with each of the 34 MAI–CoC program grantees.

SAMHSA will conduct one-on-one and group interviews with MAI–CoC grantee staff who will provide information on their program's integration of HIV and Hepatitis prevention, medical care, and primary care into behavioral health services. While participating in the evaluation is a condition of the grantees' funding, participating in the interview process is voluntary. The instruments are designed to collect information about: (1) The development and changes in MAI–CoC program operations, staffing, training and programming; (2) the grantee organization, the MAI–CoC program and its structure, the community context surrounding program efforts, and changes that result from MAI–CoC activities; and, (3) the changes in the number or nature of partnerships and collaborations both internal and external to the MAI–CoC program grantee.

Below is the table of the estimated total burden hours:

Data collection tool	Number of respondents	Number of responses per respondent	Hour per response	Total burden hours
Initial Site Visit Interview Guide	306	1	2	612
Follow-up Site Visit Interview Guide	306	1	1	306
Total	612	2	3	918

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57–B, Rockville, Maryland 20857, *OR* email a copy to *summer.king@samhsa.hhs.gov.* Written comments should be received by August 8, 2016.

Summer King,

Statistician.

[FR Doc. 2016–13511 Filed 6–7–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2016–0142]

Towing Safety Advisory Committee; June 2016 Teleconference

AGENCY: Coast Guard, DHS.

ACTION: Notice of teleconference meeting; correction to day-of-the-week reference.

SUMMARY: The Coast Guard published a notice in the **Federal Register** on June 2, 2016, announcing a Towing Safety Advisory Committee meeting, via teleconference. That notice listed the wrong day of the week for the date of the meeting. The notice should have stated, Wednesday, June 22, 2016. This notice removes the incorrect day-of-the-week reference.

DATES: This correction is effective June 8, 2016. The Towing Safety Advisory Committee will meet, via teleconference, on Wednesday, June 22, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Abernathy, Alternate Designated Federal Officer of the Towing Safety Advisory Committee, 2703 Martin Luther King Jr Ave. SE., Stop 7509, Washington, DC 20593–7509, telephone 202–372–1363, fax 202–372–8382 or *william.j.abernathy@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard published a document in the **Federal Register** on June 2, 2016 (81 FR 35375), announcing a meeting of the Towing Safety Advisory Committee via teleconference. We listed the wrong day of the week for the June 22, 2016 meeting. The Committee will meet on Wednesday, June 22, 2016. This correction removes the incorrect day-of-the-week reference.

In notice FR Doc. 2016–12963 published June 2, 2016 (81 FR 35375), make the following correction:

On page 3537, in the second column, in the second line of the **DATES** section, remove the word ''Tuesday'' and add, in its place, the word ''Wednesday''.

Dated: June 2, 2016.

J.G. Lantz,

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

[FR Doc. 2016–13515 Filed 6–7–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2016–0007]

Public Assistance Program Minimum Standards; Reopening of Comment Period

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Federal Emergency Management Agency (FEMA) is issuing this notice to advise the public that FEMA is reopening the comment period for Docket ID FEMA–2016–0007. The

initial notice of availability of FEMA's proposed policy regarding minimum standards for Public Assistance restoration of damaged facility projects published in the April 21, 2016 **Federal Register**, and requested public comments no later than May 23, 2016. FEMA has reopened the comment period for submitting public comments to July 8, 2016.

DATES: The comment period for the notice published on April 21, 2016 (81 FR 23503), is reopened. Comments must be received by July 8, 2016.

ADDRESSES: Comments must be identified by docket ID FEMA–2016–0007 and may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Please note that this proposed policy is not a rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

Mail: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C Street SW., Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: William Roche, Director, Public Assistance Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, 202–646–3834.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) is issuing this notice to advise the public that FEMA is reopening the comment period for Docket ID FEMA–2016–0007. The initial notice of availability of FEMA's proposed policy regarding minimum standards for Public Assistance restoration of damaged facility projects published in the April 21, 2016 **Federal Register** (81 FR 23503), and requested public comments no later than May 23, 2016.

Interested parties have requested additional time to review and comment on the proposed policy. FEMA has reopened the comment period for submitting public comments to July 8, 2016.

Authority: 42 U.S.C. 5165a, 5172; 44 CFR 206.226, 206.400.

David Bibo,

Deputy Associate Administrator, Office of Policy and Program Analysis, Federal Emergency Management Agency.

[FR Doc. 2016–13546 Filed 6–7–16; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLESM03300.L16100000.DU0000]

Notice of Intent To Amend the Land Use Plans for the BLM-Administered Public Lands in Wisconsin and Minnesota and Prepare an Associated Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM) Northeastern States District, Milwaukee, Wisconsin, intends to prepare amendments for the Wisconsin Resource Management Plan (1985), the Minnesota Management Framework Plan (1982), and the Lake Vermilion Public Islands Coordinated Resource Management Plan (1993) (collectively referred to as Land Use Plans) and an associated Environmental Assessment (EA) for the BLM-administered public lands in Wisconsin and Minnesota, and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the Land Use Plan amendments with an associated EA. Comments on issues may be submitted in writing until July 8, 2016. The BLM will hold public meetings pertaining to this proposed Land Use Plan amendment in one community in Minnesota (city of Virginia) and in three Wisconsin communities (cities of Stevens Point, Eau Claire, and Milwaukee). The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media, newspapers, and the BLM Web site at: *https://www.blm.gov/epl-front-office/eplanning/lup/lup_register.do.* In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the Land Use Plan Amendments and Associated EA by any of the following methods:

- *Internet: https://www.blm.gov/epl-front-office/eplanning/lup/lup_register.do.*
- *Email: blm_es_comments@blm.gov.*
- *Fax:* 414–297–4409.
- *Mail:* Bureau of Land Management, Northeastern States District, 626 E. Wisconsin Avenue, Suite 200, Milwaukee, WI 53202.

Documents pertinent to this proposal may be examined at the Northeastern States District, 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Kurt Wadzinski, telephone 414–297–4408; address 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202; email *kwadzins@blm.gov.* Contact Mr. Wadzinski to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Northeastern States District, Milwaukee, Wisconsin, intends to prepare Land Use Plan amendments with an associated EA for the BLM-administered public lands in Wisconsin and Minnesota. This notice announces the beginning of the scoping process and invites public input on issues and planning criteria. The planning area is located in Wisconsin and Minnesota and encompasses approximately 3,636 acres of public land, including approximately 350 islands in Wisconsin, 100 islands in Minnesota, 30 upland parcels in Minnesota, and six upland parcels in Wisconsin. The planning area is covered by three Land Use Plans, including the Wisconsin Resource Management Plan (1985), the Minnesota Management Framework Plan (1982), and the Lake Vermilion Public Islands Coordinated Resource Management Plan (CRMP) (1993). An inventory of wilderness characteristics of the public islands in Wisconsin was published in 1981, and concluded that the public islands in Wisconsin do not meet the criteria for designation as wilderness. Amendments are needed to facilitate a more proactive management approach, in light of new information on resources that are present on the lands in question, notably the presence of cultural resources and sensitive wildlife habitats and plant communities. The purpose of

the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the plan amendment area have been identified by BLM personnel, Federal, State, and local agencies, and other stakeholders. The issues include the following: (a) Degradation of cultural resources; (b) Recreation site degradation from litter, construction of unauthorized structures, and cutting of live trees for campfires; (c) Conflicts between recreational users and managers of nearby, regulated recreation sites under different jurisdictions; and (d) Spread of non-native, invasive plant species. Preliminary planning criteria are as follows: (a) The Land Use Plans will be amended in compliance with FLPMA, NEPA, the Shipstead-Nolan-Newton Act of 1930, and all other relevant Federal laws, executive orders, and BLM policies; (b) Where planning decisions are still valid, those decisions may remain unchanged and incorporated into the new Land Use Plans; (c) The Land Use Plans will recognize valid, existing rights; (d) Native American tribal consultations will be conducted in accordance with policy and Tribal concerns will be given due consideration; (e) The amended Land Use Plans (not including the Lake Vermilion CRMP) will provide disposal criteria that balance the public benefits of BLM retention against the management efficiency of land disposal; (f) The amended Land Use Plans will provide policy for managing recreational use on BLM-administered public lands; and (g) The amended Land Use Plans will provide a general description of BLM management activities pertaining to vegetation, prescribed fire, wildlife, cultural resources, and other resources. You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments by the close of the 30-day scoping period or within 15 days after the last public meeting, whichever is later.

The BLM will utilize and coordinate the NEPA scoping process to help fulfill the public involvement process under the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed. The BLM will evaluate identified issues to be addressed in the plan, and will place them into one of three categories:

1. Issues to be resolved in the plan amendment;

2. Issues to be resolved through policy or administrative action; or

3. Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the EA as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: outdoor recreation, cultural resources, forestry, vegetation, wildlife and fisheries, lands and realty, hydrology, soils, air quality, fire management, sociology and economics.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2

Dean Gettinger,

District Manager, Northeastern States District.

[FR Doc. 2016–13557 Filed 6–7–16; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L14400000–BJ0000–16XL1109AF: HAG 16–0148]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 37 S., R. 2 E, accepted April 18, 2016

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW. 3rd Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW. 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. Before

including your address, phone number, email address, or other personally identifying information in your comment, you should be aware that your entire comment—including your personally identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifying information from public review, we cannot guarantee that we will be able to do so.

Mary J.M. Hartel,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2016–13565 Filed 6–7–16; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC09000 L71220000.EU0000 15XL8069TF LVTFB1559610; CACA 54618]

Notice of Realty Action: Proposed Non-Competitive (Direct) Sale of Public Land in Fresno and Monterey Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM), Central Coast Field Office, is considering a direct sale of public land containing 40 acres to Timothy Haley under Sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, at not less than the fair market value of $149,500.

DATES: Comments must be received by July 25, 2016. The BLM will not hold the public sale prior to August 8, 2016.

ADDRESSES: Comments should be sent to the Bureau of Land Management Central Coast Field Office; Attn: Smith Mountain Project Manager, 940 2nd Ave. Marina, California, 93933–6009 or by email to *blm_ca_hollister_fo_email@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Christine Sloand, Realty Specialist, Bureau of Land Management, Central Coast Field Office, 831–582–2200. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM will consider a direct sale for the following public lands in Fresno and Monterey counties, California, in accordance with Sections 203 and 209 of FLPMA (43 U.S.C. 1713 and 1719):

Mount Diablo Meridian, California

T. 21 S., R. 13 E.,
Sec. 29, NE¼NW¼.

The area described contains 40 acres.

The direct sale of the public land is in conformance with the BLM's 1984 Hollister Resource Management Plan (RMP) for the Southern Diablo Mountain Range and Central Coast of California, revised in 2007, and is located under Land Tenure Adjustment (LTEN–COM3) on page 3–36 and shown on Figure 27. Regulations at 43 CFR 2710.0–3(a) and 43 CFR 2711.3–3(a) authorize the BLM to utilize a direct sale of public land when a competitive sale is not appropriate and the public interest would best be served by a direct sale. The BLM will dispose of a small, isolated parcel that lacks legal public access making it difficult and uneconomical to manage. The land is not suitable for management by another Federal agency. The BLM will offer the lands to Timothy Haley since he is the adjacent landowner and owns the access to the public land. The other surrounding landowners are not interested in acquiring the public land.

The BLM prepared a mineral potential report, dated July 31, 2014, that concludes there are no known mineral values in the land offered for direct sale. Therefore, the BLM intends to convey the Federal mineral interest simultaneously with the sale. Timothy Haley will be required to pay a $50 non-refundable filing fee for conveyance of the available mineral interests and any associated administrative costs.

Pursuant to the requirements of 43 CFR 2711.1–2(d), publication of this notice in the **Federal Register** will segregate the land from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. Until completion of the sale, the BLM will no longer accept land use applications affecting the public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** or a termination of the segregation, or on June 8, 2018 unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. The BLM will publish this notice in the Monterey County Weekly newspaper once a week for three consecutive weeks.

The conveyance document will include the following terms, covenants, conditions, and reservations:

A reservation to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

The conveyance document will convey the land subject to the following:

1. Valid existing rights of record;

2. A right-of-way CACA 12914 for a communications site granted to the State of California Department of General Services on behalf of the California Department of Forestry and Fire Protection, (FLPMA);

3. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented lands; and

4. Additional terms and conditions that the authorized officer deems appropriate.

The BLM will make available the reports pertaining to the land, which include an appraisal, environmental site assessment, and mineral potential report for review at the address above. Until July 25, 2016, interested parties may submit in writing any comments concerning the land being considered for sale, including notifications of any encumbrances or other claims relating to the parcel, to the Field Manager, BLM Central Coast Field Office, at the address above. Comments, including names and street addresses of respondents will be available for public review at the BLM Central Coast Field Office during regular business hours, except holidays.

The BLM State Director or other authorized official of the Department of the Interior will review comments regarding the parcel and may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely field objections, this realty action will become the final determination of the Department of the Interior.

Before including your address, phone number, email address, or other personal identifying information in your comments, the BLM will make your entire comment—including your personal identifying information—publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2710, 2711, and 2720.

Tom Pogacnik,

Deputy State Director, Resources.

[FR Doc. 2016–13555 Filed 6–7–16; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21097: PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Office of the State Archaeologist, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Office of the State Archaeologist Bioarchaeology Program, previously listed as the Office of the State Archaeologist Burials Program, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Office of the State Archaeologist Bioarchaeology Program. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Office of the State Archaeologist Bioarchaeology Program at the address in this notice by July 8, 2016.

ADDRESSES: Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 South Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Office of the State Archaeologist Bioarchaeology Program, Iowa City, IA. The human remains and associated funerary objects were removed from Polk County, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Office of the State Archaeologist Bioarchaeology Program professional staff in consultation with representatives of the Ho-Chunk Nation of Wisconsin; the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; and the Winnebago Tribe of Nebraska.

History and Description of the Remains

At an unknown date, likely between 1914 and 1935, human remains representing, at minimum, one individual were removed from a burial near the town of Runnells, in Polk County, IA. The human remains were stored at the Iowa State Historical Society until 2013, when they were transferred to the Office of the State Archaeologist Bioarchaeology Program. The human remains represent a late-term fetus or newborn child (Burial Project 2926). No known individuals were identified. The 310 associated funerary objects are 307 glass beads, one hematite fragment, one wood fragment, and one piece of linsey-woolsy textile.

Based on the artifacts associated with the human remains, the burial is believed to belong to the Ioway culture, which is affiliated with the present day Ho-Chunk Nation of Wisconsin; the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; and the Winnebago Tribe of Nebraska.

Determinations Made by the Office of the State Archaeologist Bioarchaeology Program

Officials of the Office of the State Archaeologist Bioarchaeology Program have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 310 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ho-Chunk Nation of Wisconsin; the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; and the Winnebago Tribe of Nebraska.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 South Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu,* by July 8, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Ho-Chunk Nation of Wisconsin; the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; and the Winnebago Tribe of Nebraska, may proceed.

The Office of the State Archaeologist Bioarchaeology Program is responsible for notifying the Ho-Chunk Nation of Wisconsin; the Iowa Tribe of Kansas and Nebraska; the Iowa Tribe of Oklahoma; the Otoe-Missouria Tribe of Indians, Oklahoma; and the Winnebago Tribe of Nebraska, that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13596 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21096]; [PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Office of the State Archaeologist, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Office of the State Archaeologist Bioarchaeology Program, previously listed as the Office of the State Archaeologist Burials Program, has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Office of the State Archaeologist Bioarchaeology Program. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Office of the State Archaeologist Bioarchaeology Program at the address in this notice by July 8, 2016.

ADDRESSES: Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 South Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Office of the State Archaeologist Bioarchaeology Program. The human remains were removed from Walworth County, SD.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Office of the State Archaeologist Bioarchaeology Program professional staff in consultation with representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

History and Description of the Remains

In the 1960s, human remains representing, at minimum, one individual were removed from an unknown location, likely the Swan Creek site (39WW7), in Walworth County, SD. The human remains were transferred from an employee of the State Historical Museum to a private individual at an unknown date. The son of the recipient transferred the human remains to the Office of the State Archaeologist Bioarchaeology Program in June 2002. The cranial remains were identified as an older, possibly male adult (Burial Project 1588). No known individuals were identified. No associated funerary objects are present.

The Swan Creek site is attributed to the Coalescent tradition. The people who resided at Coalescent sites are considered to be most likely affiliated with the Arikara. The Arikara are present-day members of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Determinations Made by the Office of the State Archaeologist Bioarchaeology Program

Officials of the Office of the State Archaeologist Bioarchaeology Program have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 South Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu,* by July 8, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may proceed.

The Office of the State Archaeologist Bioarchaeology Program is responsible for notifying the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13595 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21092; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Catalina Island Museum, Avalon, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Catalina Island Museum, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meet the definition of a sacred object. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Catalina Island Museum. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the request to the Catalina Island Museum at the address in this notice by July 8, 2016.

ADDRESSES: Michael DeMarsche, Ph.D., Catalina Island Museum, 1 Casino Way, Casino Building, P.O. Box 366, Avalon,

CA 90704, telephone (310) 510–2416, email *director@catalinamuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Catalina Island Museum, Avalon, CA, that meets the definition of a sacred object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

In 1961, one cultural item was donated to the Catalina Island Museum by Catherine Loud as part of a set of 13 baskets, both of native and non-native origin, with no contextual information provided. Requests for information were sent out to tribes based on preliminary assessments of potential affiliation. Based on consultation with the Timbisha Shoshone, catalog number 61.484.13 was identified as a cremation basket and part of a living ceremonial tradition. The Timbisha Shoshone (aka Panamint Shoshone) are located in Death Valley, CA and as part of their final death rites, after cremation occurred, the ashes were collected and placed in a specifically designed basket. This basket is identified as one of them, although no human remains were found with the basket.

Determinations Made by the Catalina Island Museum

Officials of the Catalina Island Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the 1 cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Timbisha Shoshone Tribe of Death Valley.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Michael DeMarsche, Ph.D., Catalina Island Museum, 1 Casino Way, Casino Building, P.O. Box 366, Avalon, CA 90704, telephone (310) 510–2416, email *director@catalinamuseum.org,* by July 8, 2016. After that date, if no additional claimants have come forward, transfer of control of the sacred object may be to Timbisha Shoshone Tribe of Death Valley.

The Catalina Island Museum is responsible for notifying the Timbisha Shoshone Tribe of Death Valley that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13588 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21093; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Evanston History Center, Evanston, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Evanston History Center has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Evanston History Center. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Evanston History Center at the address in this notice by July 8, 2016.

ADDRESSES: Alyssa M. Padilla, Evanston History Center, 225 Greenwood Street, Evanston, IL 60201, telephone (847) 475–3410, email *apadilla@evanstonhistorycenter.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Evanston History Center, Evanston, IL. The first set of human remains was removed from either Albany, Whiteside County, IL or Evanston, Cook County, IL. The second set of human remains was removed from Evanston, Cook County, IL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Evanston History Center professional staff in consultation with representatives of Delaware Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Peoria Tribe of Indians of Oklahoma; Sac & Fox Nation of Missouri in Kansas and Nebraska; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In 1878, human remains representing, at minimum, one individual were removed from either Albany, Whiteside County, IL (Albany Mounds, site 11WT1) or Evanston, Cook County, IL. Conflicting provenance indicated on inventory tags and lack of accession records complicate the history of these human remains. One document asserts it is the skull of a Native American girl removed from a mound on the upper terrace of hills on the Mississippi river near Albany, IL in 1878 and was donated by F.S. Pooler (donation date unknown). Another document indicates that the skull was unearthed in a burial ground on the site of the present Evanston Hospital. It is unknown what methods were used in determining the age or gender of the cranium. No known individuals were identified. No associated funerary objects are present.

On an unknown date, prior to 1929, human remains representing, at

minimum, one individual were removed from south Evanston, Cook County, IL, along the lake shore. The fragmented human remains were presented to the Evanston Historical Society in 1929 as part of the C.S. Raddin Collection. Charles Salisbury Raddin (1863–1930) was an early director of the Evanston Historical Society. It is unknown when or exactly where on the South Evanston lakeshore the fragments were originally discovered. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Evanston History Center

Officials of the Evanston History Center have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on collection documentation in the Evanston History Center's records.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 2 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band of Potawatomi Nation; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; and the Winnebago Tribe of Nebraska.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band of Potawatomi Nation; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; and the Winnebago Tribe of Nebraska.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Alyssa M. Padilla, Evanston History Center, 225 Greenwood Street, Evanston, IL 60201, telephone (847) 475–3410, email *apadilla@evanstonhistorycenter.org,* by July 8, 2016, After that date, if no additional requestors have come forward, transfer of control of the human remains to Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band of Potawatomi Nation; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; and the Winnebago Tribe of Nebraska may proceed.

The Evanston History Center is responsible for notifying the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hannahville Indian Community, Michigan; Ho-Chunk Nation of Wisconsin; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band of Potawatomi Nation; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; and the Winnebago Tribe of Nebraska that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13590 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21099: PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Lake County Discovery Museum, Wauconda, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Lake County Discovery Museum has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes. Representatives of any Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Lake County Discovery Museum. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Lake County Discovery Museum at the address in this notice by July 8, 2016.

ADDRESSES: Diana Dretske, Lake County Discovery Museum, 27277 North Forest Preserve Road, Wauconda, IL 60084, telephone (847) 968–3381, email *ddretske@lcfpd.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Lake County Discovery Museum, Wauconda, IL. The human remains and associated funerary objects were removed from Lake County, IL, and possibly McHenry County, IL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has

control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Lake County Discovery Museum professional staff in consultation with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana. The following tribes were invited to consult but did not respond to the invitation: Bad River Band of Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rock Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Eastern Band of Cherokee Indians; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indian of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota. All tribes listed above are hereafter referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

In the 1950s or 1960s, human remains representing, at minimum, 17 individuals were found in an unknown location along Route 173, in Lake County, IL. The human remains were donated to the Lake County Discovery Museum around the same time. No known individuals were identified. No associated funerary objects are present.

In January and June 1962, human remains representing, at minimum, 11 individuals were discovered in a gravel quarry owned by Vulcan Materials Company, Consumers Division. The site was designated as Illinois Archaeology Site L–65, along the Des Plaines River, Lake County, IL. The burial site was ''uncovered after workers for a gravel company had stripped away the top layer of ground. The final excavation was done largely by the staff of the Lake County Museum.'' The human remains were taken to the museum by Robert Vogel. The human remains were identified as eight adults and 3 children. No known individuals were identified. The 2 associated funerary objects are the jaw and intact teeth of a horse, and a necklace of bear teeth, shells, and fossilized crinoid stem beads.

In July 1959, human remains representing, at minimum, one individual were removed from a site on private land in Lake County, IL. The Lake County Sheriff was called to the James Kleth home on Ackerman Road, Antioch, where John B. Draundt was digging on the south side of the house and discovered human remains. County officials determined the land was a Native American burial ground. In 1976, the Office of Sheriff stated that ''these bones were turned over to Mr. Vogel, who was the museum director at the time.'' No known individuals were identified. No associated funerary objects are present.

In the late 1950s or early 1960s, human remains representing, at minimum, four individuals were found in Newport Township, IL, and donated to the museum around the same time. The human remains were identified as three adults and one child. No known individuals were identified. The one associated funerary object is a rat skull.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown area believed to be in McHenry County, IL. No other information is available for the human remains. No known individual was identified. No associated funerary objects are present.

Determinations Made by the Lake County Discovery Museum

Officials of the Lake County Discovery Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on catalogue records and collection information.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 34 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the three associated funerary objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects, and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Consulted and Invited Tribes.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of The Consulted and Invited Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Diana Dretske, Lake County Discovery Museum, 27277 North Forest Preserve Road, Wauconda, IL 60084, telephone (847) 968–3381, email *ddretske@lcfpd.org,* by July 8, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Consulted and Invited Tribes may proceed.

The Lake County Discovery Museum is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13591 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–2109; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Catalina Island Museum, Avalon, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Catalina Island Museum, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Catalina Island Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Catalina Island Museum at the address in this notice by July 8, 2016.

ADDRESSES: Michael DeMarsche, Ph.D., Catalina Island Museum, 1 Casino Way, Casino Building, P.O. Box 366, Avalon, CA 90704, telephone (310) 510–2416, email *director@catalinamuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Catalina Island Museum, Avalon, CA, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

In 1996, Justin Farmer donated a cultural item (identified as 96.018) to the Catalina Island Museum as part of a set of baskets with no contextual information. Requests for information were sent out to tribes based on preliminary assessments of potential affiliation. Based on consultation with the Santa Rosa Indian Community of the Santa Rosa Rancheria, California, and Table Mountain Rancheria of California, the basket was determined to be part of living ceremonial traditions. Based on designs and shape it was identified as a traditional Yokuts Rattlesnake basket used in their Spring Ceremony. In addition twinned baskets such as catalog number 96.018 are identified as ''Tulare bottleneck'' or ''treasure'' baskets. The basket meets the NAGPRA definition of a sacred object, and is needed by current religious practitioners for the Rattlesnake ceremony and the Spring ceremony.

In 1961, an unknown person donated one cultural item (identified as 61.46.16) to the Catalina Island Museum with no contextual information. Based on consultation with the Santa Rosa Indian Community of the Santa Rosa Rancheria, California, and Table Mountain Rancheria of California, the basket displays designs known as the Goose design (La-La). These designs signify that it is a cooking basket used for the Spring Ceremony. The basket meets the NAGPRA definition of a sacred object and is needed by current religious practitioners for the Spring Ceremony.

The Yokuts language belongs to the Penutian language family and is divided by anthropologists into three distinct groups: The Southern Valley Yokuts, located in the southern end of the San Joaquin Valley from the lower Kings River to the Tehachapi Mountains; the Foothill Yokuts occupying the western slopes of the Sierra Nevada Mountains from Fresno River to the Kern River; and the Northern Valley Yokuts extended ''from near where the San Joaquin River makes a big bend northward to a line midway between the Calaveras and Mekelumne Rivers.'' Based on consultation with Santa Rosa Indian Community of the Santa Rosa Rancheria, California, and Table Mountain Rancheria of California, catalog number 96.018 and 61.46.16 are sacred items, as defined by NAGPRA.

Determinations Made by the Catalina Island Museum

Officials of the Catalina Island Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the 2 cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and Picayune Rancheria of the Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and the Tule River Indian Tribe of the Tule River Reservation, California.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Michael DeMarsche, Ph.D., Catalina Island Museum, 1 Casino Way, Casino Building, P.O. Box 366, Avalon, CA 90704, telephone (310) 510–2416, email *director@catalinamuseum.org,* by July 8, 2016. After that date, if no additional claimants have come forward, transfer of control of the sacred objects to the Picayune Rancheria of the Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; the Table Mountain Rancheria of California; and the Tule River Indian Tribe of the Tule River Reservation, California will occur.

The Catalina Island Museum is responsible for notifying the Picayune Rancheria of the Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; and the Tule River Indian Tribe of the Tule River Reservation, California, that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13589 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21100; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Department of Anthropology, Indiana University, Bloomington, IN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of Anthropology at Indiana University, Bloomington has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Indiana University NAGPRA Office. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Indiana University NAGPRA Office at the address in this notice by July 8, 2016.

ADDRESSES: Dr. Jayne-Leigh Thomas, NAGPRA Director, Indiana University, NAGPRA Office, Student Building 318, 701 East Kirkwood Avenue, Bloomington, IN 47405, telephone (812) 856–5315, email *thomajay@indiana.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Department of Anthropology at Indiana University, Bloomington, IN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Indiana University professional staff in consultation with representatives of the Jena Band of the Choctaw Indians; the Mississippi Band of the Choctaw Indians; and The Choctaw Nation of Oklahoma.

History and Description of the Remains

In 1956, human remains representing, at minimum, 1 individual were donated to the Department of Anthropology at Indiana University from the Cincinnati Society of Natural History. Notes indicate that these human remains may have been part of the Chicago Historical Society collections prior to 1950. The human remains are labeled as belonging to a Choctaw Indian. No other information is present. No known individuals were identified. No associated funerary objects are present.

Determinations Made by Indiana University

Officials of the Department of Anthropology at Indiana University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Jena Band of the Choctaw Indians; the Mississippi Band of the Choctaw Indians; and The Choctaw Nation of Oklahoma.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Jayne-Leigh Thomas, NAGPRA Director, Indiana University, NAGPRA Office, Student Building 318, 701 East Kirkwood Avenue, Bloomington, IN 47405, telephone (812) 856–5315, email *thomajay@indiana.edu,* by July 8, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Jena Band of the Choctaw Indians; the Mississippi Band of the Choctaw Indians; and The Choctaw Nation of Oklahoma may proceed.

Indiana University is responsible for notifying the Jena Band of the Choctaw Indians; the Mississippi Band of the Choctaw Indians; and The Choctaw Nation of Oklahoma that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13593 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21090: PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Los Angeles County Museum of Natural History, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Los Angeles County Museum of Natural History (LACMNH) has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Los Angeles County Museum of Natural History. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Los Angeles County Museum of Natural History at the address in this notice by July 8, 2016.

ADDRESSES: Dawn McDivitt, Chief Deputy Director, Los Angeles County Museum of Natural History, 900 Exposition Boulevard, Los Angeles, CA 90007, telephone (213) 763–3306, email *dmcdivitt@nhm.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C.

3003, of the completion of an inventory of human remains under the control of the Los Angeles County Museum of Natural History, Los Angeles, CA. The human remains were removed from near the former town of Ainsworth, in Franklin County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Los Angeles County Museum of Natural History professional staff in consultation with representatives of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe (previously listed as the Nez Perce Tribe of Idaho); and the Wanapum Band of Priest Rapids, a non-federally recognized Indian group.

History and Description of the Remains

In October 1905, human remains representing, at minimum, one individual (Natural History Museum Number A.4262.37–1) were removed from the confluence of the Snake and Columbia Rivers near the former town of Ainsworth, in Franklin County, WA. The burial was found 30 feet from the Columbia River shoreline during the course of excavation for a temporary wharf at the mouth of the Snake River. According to accession records at the Los Angeles County Natural History Museum, the burial was reportedly found six feet below the surface. The skull and mandible of a young person of indeterminate sex between the ages of 20 to 25 years were reportedly collected. The remains were stained green by copper salts. The left frontal bone showed an injury which had healed prior to the death of the individual. The remains were gifted to the LACNMH on 28 August 1937, by Leon G. Fell of Bakersfield, California, under accession number A.4262.37–1. No known individuals were identified. No associated funerary objects are present.

Today, the collection consists of a single mandible with green staining; the cranium is absent. The tribes with which the Museum consulted have noted that such green staining is typical of other human remains that have been culturally affiliated with the Plateau Culture from along the Snake and Columbia Rivers.

Prehistorically, the Ainsworth, Washington area was occupied seasonally by people of the Plateau Culture for at least 5,000 years. Ethnographers agree that the Plateau Culture people were Sahaptin speakers of the Palus, Walúulapam (Walla Walla), Imatalamláma (Umatilla), and Wanapam/Wanapum.

On their historic journey to the Pacific Ocean, Lewis and Clark noted being visited by Sahaptin speaking people on October 16, 1805, while at the mouth of the Snake River, which they called the Kimooenim or Lewis's River. The captains met two groups of Indians at their camp at the mouth of the Snake River, the Chimnapams and Sokulks, or what is today known as the Yakamas and Wanapums respectively. The Yakamas lived in villages along both sides of the Columbia River in the vicinity of present-day Pasco, Washington, north of the Snake River. The Wanapum lived further up the Columbia on the west bank, north of present-day Richland, Washington. Many Wallula and some Umatilla people lived north and south of the Snake River, too, as the river area was important as a valuable fishing and trading location.

Descendants of these communities are present-day members of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band of Priest Rapids, a non-federally recognized Indian group.

Determinations Made by the Los Angeles County Museum of Natural History

Officials of the Los Angeles County Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band of Priest Rapids, a non-federally recognized Indian group.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human should submit a written request with information in support of the request to Dawn McDivitt, Chief Deputy Director, Los Angeles County Museum of Natural History, 900 Exposition Boulevard, Los Angeles, CA 90007, telephone (213) 763–3306, email *dmcdivitt@nhm.org,* by July 8, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-federally recognized Indian group (if joined to one or more of the above Indian tribes) may proceed.

The Los Angeles County Museum of Natural History is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-federally recognized Indian group that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13594 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21098; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Office of the State Archaeologist, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Office of the State Archaeologist Bioarchaeology Program, previously listed as the Office of the State Archaeologist Burials Program, has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Office of the State Archaeologist Bioarchaeology Program. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Office of the State Archaeologist Bioarchaeology Program at the address in this notice by July 8, 2016.

ADDRESSES: Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 South Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Office of the State Archaeologist Bioarchaeology Program, Iowa City, IA. The human remains were removed from an unspecified location in California.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Office of the State Archaeologist Bioarchaeology Program professional staff in consultation with the Native American Heritage Commission, representatives of the Tejon Indian Tribe; the Tule River Indian Tribe of the Tule River Reservation, California; and the Kern Valley Indian Community, a non-federally recognized Indian group.

History and Description of the Remains

At an unknown date, human remains representing a minimum of one individual were removed from an unspecified mound site in California. At some point, the human remains, which were identified as ''taken from mound of Kawai tribe,'' were donated to the Ham House Museum in Dubuque, IA. These human remains were transferred to the Office of the State Archaeologist Bioarchaeology Program in 1986. The human remains were identified as a young adult male (Burial Project 655). No known individuals were identified. No associated funerary objects are present.

The human remains are attributed to the Kawaiisu, based on collection evidence. The Kawai, also known as the Kawaiisu or Kaweah, occupied Eastern California in the vicinity of the Tehachapi Mountains. When the original Tule River Reservation was established in 1856, the Kawaiisu were among the tribes represented. Ethnohistorically, Kawaiisu is the name of a population that encompasses thre, now separate, present-day communities: The Tejon Indian Tribe, the Tule River Indian Tribe, and the Kern Valley Indian Community, a non-Federally recognized Indian group.

Determinations Made by the Office of the State Archaeologist Bioarchaeology Program

Officials of the Office of the State Archaeologist Bioarchaeology Program have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Tule River Indian Tribe of the Tule River Reservation, California.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 South Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.edu,* by July 8, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Tule River Indian Tribe of the Tule River Reservation, California, may proceed.

The Office of the State Archaeologist Bioarchaeology Program is responsible for notifying the Tejon Indian Tribe; the Tule River Indian Tribe of the Tule River Reservation, California; and the Kern Valley Indian Community, a non-federally recognized Indian group, that this notice has been published.

Dated: May 16, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13592 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21139; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Pennsylvania Museum of Archaeology and Anthropology has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of Pennsylvania Museum of Archaeology

and Anthropology. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Pennsylvania Museum of Archaeology and Anthropology at the address in this notice by July 8, 2016.

ADDRESSES: Dr. Julian Siggers, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104, telephone (215) 898–4050.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA. The human remains were removed from an unknown site in Wayne County, MI and Cuyahoga County, OH.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Pennsylvania Museum of Archaeology and Anthropology professional staff in consultation with representatives of the Pokagon Band of Potawatomi Indians, Michigan and Indiana; Wyandotte Nation; and the Michigan Anishinaabek Cultural Preservation and Repatriation Alliance (MACPRA), a non-federally recognized entity which represents the following federally recognized groups: Bay Mills Indian Community, Michigan; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Pottawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

History and Description of the Remains

In 1844, human remains representing, at minimum, two individuals were removed by Lt. Montgomery C. Meigs from an unknown mound site in Wayne County, MI. According to museum and archival documents, the human remains were discovered in the immediate vicinity of Detroit and sent to Samuel G. Morton for inclusion in his collection of human crania from around the world prior to 1846. The human remains are represented by a cranium (no mandible) of a single adult female 35–45 years of age and a cranium (no mandible) of a probable male 30–40 years of age. No known individuals were identified. No associated funerary objects are present.

At an unknown date prior to 1839, human remains representing, at minimum, one individual were removed by Dr. George Mendenhall from an unknown site in Cuyahoga County, OH, and were sent to Samuel G. Morton for inclusion in his collection of human crania from around the world prior to 1846. According to museum and archival documents, the human remains were discovered near Cleveland, Cuyahoga County, OH. The human remains are represented by a cranium (no mandible) of a single female 35–45 years of age. No known individuals were identified. No associated funerary objects are present.

At an unknown date prior to 1839, human remains representing, at minimum, one individual were removed by Dr. Sturum from an unknown location near Detroit, Wayne County, MI. After his death, the human remains came into possession of the executor of Sturum's estate and were sent to Samuel G. Morton for inclusion in his collection of human crania from around the world prior to 1846. The human remains are represented by a cranium and mandible of a male, 50+ years of age. Museum and archival documents identified this individual as a ''chief, who was slain in a broil with his son-in-law.'' No known individuals were identified. No associated funerary objects are present.

Dr. Morton published his collection in several catalogues (1839, 1840, and 1849). In 1853, Dr. Morton's collection, including all the human remains described above, were purchased from Dr. Morton's estate and formally presented to the Academy of Natural Sciences. In 1966, Dr. Morton's collection was loaned to the University of Pennsylvania Museum of Archaeology and Anthropology. In 1997, the collection was formally gifted to the University of Pennsylvania Museum of Archaeology and Anthropology.

Literature from the museum, collectors, and publications indicate that the four sets of human remains date to the Historic Period. The human remains have been identified as Native American based on specific cultural and geographic attribution in the museum records. Collector records, museum documentation and published sources identify the human remains above as Wyandot (Huron). Scholarly publications and land cession records indicate that the areas from which the human remains were removed are within the traditional aboriginal territory of the Wyandot (Huron) Indians and many known historic Wyandot (Huron) occupation sites within these areas have been identified.

Determinations Made by the University of Pennsylvania Museum of Archaeology and Anthropology

Officials of the University of Pennsylvania Museum of Archaeology and Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and Wyandotte Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Julian Siggers, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104, telephone (215) 898–4050, by July 8, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Wyandotte Nation may proceed.

The University of Pennsylvania Museum of Archaeology and Anthropology is responsible for notifying the Bay Mills Indian Community, Michigan; Grand Traverse Band of Ottawa and Chippewa Indians,

Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Pottawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan, that this notice has been published.

Dated: May 23, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13597 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21140; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Lakeshore Museum Center, Muskegon, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Lakeshore Museum Center, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meets the definition of an unassociated funerary object. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the Lakeshore Museum Center. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the Lakeshore Museum Center at the address in this notice by July 8, 2016.

ADDRESSES: Sharon McCullar, Collections Curator, Lakeshore Museum Center, 430 West Clay, Muskegon, MI 49440, telephone (231) 722–0278, email *sharon@lakeshoremuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the Lakeshore Museum Center that meets the definition of unassociated funerary objects under 25 U.S.C. 3001(3)(B).

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

Sometime prior to 1985, a mano and metate set was removed from the vicinity of the Mission San Xavier, south of Tucson, AZ. The item was donated to the Muskegon County Museum, now known as the Lakeshore Museum Center. A statement provided by the donor asserting that the mano and metate set was collected from the vicinity of the Mission San Xavier, in a burial area, was affirmed in consultation with the Tohono O'Odham Nation of Arizona. The Tohono O'Odham Nation has a cultural affiliation with the mano and metate set based upon geographical, historical, and contextual information, and has requested the return of this unassociated funerary object.

Determinations Made by the Lakeshore Museum Center

Officials of the Lakeshore Museum Center have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the one cultural item described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the mano and metate set and Tohono O'Odham Nation of Arizona.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Sharon McCullar, Collections Curator, Lakeshore Museum Center, 430 West Clay, Muskegon MI 49440, telephone (231) 722–0278, email *sharon@ lakeshoremuseum.org,* by July 8, 2016. After that date, if no additional claimants have come forward, transfer of control of the corn grinding stone set to Tohono O'Odham Nation may proceed.

The Lakeshore Museum Center is responsible for notifying the Tohono O'Odham Nation that this notice has been published.

Dated: May 23, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–13598 Filed 6–7–16; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0012; DS63642000 DR2000000.CH7000 167D0102R2]

Major Portion Prices and Due Date for Additional Royalty Payments on Indian Gas Production in Designated Areas Not Associated With an Index Zone

AGENCY: Office of the Secretary, Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice.

SUMMARY: Final regulations for valuing gas produced from Indian leases, published August 10, 1999, require ONRR to determine major portion prices and notify industry by publishing the prices in the **Federal Register**. The regulations also require ONRR to publish a due date for industry to pay additional royalties based on the major portion prices. Consistent with these requirements, this notice provides major portion prices for the 12 months of calendar year 2014.

DATES: The due date to pay additional royalties based on the major portion prices is August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Michael Curry, Manager, Denver B, Western Audit & Compliance, ONRR; telephone (303) 231–3741; fax number (303) 231–3473; email *Michael.Curry@ onrr.gov;* or Rob Francoeur, Denver B, Team 2, Western Audit & Compliance, ONRR; telephone (303) 231–3723; fax (303) 231–3473; email *Rob.Francoeur@ onrr.gov.* Mailing address: Office of Natural Resources Revenue, Western Audit & Compliance, Denver B, P.O. Box 25165, MS 62520B, Denver, Colorado 80225–0165.

SUPPLEMENTARY INFORMATION: On August 10, 1999, ONRR published a final rule titled ''Amendments to Gas Valuation Regulations for Indian Leases'' effective January 1, 2000 (64 FR 43506). The gas valuation regulations apply to all gas production from Indian (Tribal or allotted) oil and gas leases, except leases on the Osage Indian Reservation.

The regulations require ONRR to publish major portion prices for each designated area not associated with an index zone for each production month beginning January 2000, as well as the due date for additional royalty payments. See 30 CFR 1206.174(a)(4)(ii). If you owe additional royalties based on a published major portion price, you must submit to ONRR by the due date, an amended form ONRR–2014, Report of Sales and Royalty Remittance. If you do not pay the additional royalties by the due date, ONRR will bill you late payment interest under 30 CFR 1218.54. The interest will accrue from the due date until ONRR receives your payment and an amended form ONRR–2014. The table below lists the major portion prices for all designated areas not associated with an index zone. The due date is the end of the month following 60 days after the publication date of this notice.

GAS MAJOR PORTION PRICES ($/MMBTU) FOR DESIGNATED AREAS NOT ASSOCIATED WITH AN INDEX ZONE

ONRR-designated areas	Jan 2014	Feb 2014	Mar 2014	Apr 2014
Blackfeet Reservation	3.42	6.58	4.24	3.82
Fort Belknap	5.61	6.76	6.24	5.00
Fort Berthold	6.40	10.27	10.48	5.19
Fort Peck Reservation	6.55	7.28	7.87	6.64
Navajo Allotted Leases in the Navajo Reservation	4.68	5.59	5.39	4.58
Turtle Mountain Reservation	7.05	7.31	8.64	5.14

ONRR-designated areas	May 2014	Jun 2014	Jul 2014	Aug 2014
Blackfeet Reservation	3.69	3.82	3.30	3.14
Fort Belknap	5.11	5.12	4.85	4.69
Fort Berthold	5.04	5.01	4.66	4.20
Fort Peck Reservation	5.17	5.00	4.79	4.49
Navajo Allotted Leases in the Navajo Reservation	4.66	4.52	4.52	3.98
Turtle Mountain Reservation	5.05	4.97	4.24	4.14

ONRR-designated areas	Sep 2014	Oct 2014	Nov 2014	Dec 2014
Blackfeet Reservation	3.13	2.81	2.99	2.34
Fort Belknap	4.77	4.75	4.89	5.10
Fort Berthold	4.24	4.09	4.37	4.83
Fort Peck Reservation	4.70	4.31	3.52	3.10
Navajo Allotted Leases in the Navajo Reservation	4.14	3.96	3.80	4.24
Turtle Mountain Reservation	4.49	4.06	4.00	3.63

For information on how to report additional royalties due to major portion prices, please refer to our Dear Payor letter dated December 1, 1999, on the ONRR Web site at *http://www.onrr.gov/ReportPay/PDFDocs/991201.pdf*

Dated: May 31, 2016.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2016–13461 Filed 6–7–16; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1003]

Certain Composite Aerogel Insulation Materials and Methods for Manufacturing the Same Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 5, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Aspen Aerogels, Inc. of Northborough, Massachusetts. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain composite aerogel insulation materials and methods for manufacturing the same by reason of infringement of certain claims of U.S. Patent No. 6,989,123 (''the '123 patent''); U.S. Patent No. 7,078,359 (''the '359 patent''); U.S. Patent No. 7,399,439 (''the '439 patent''); U.S. Patent No. 7,780,890 (''the '890 patent''); and U.S. Patent No. 9,181,486 (''the '486 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the

Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 1, 2016, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain composite aerogel insulation materials and methods for manufacturing the same by reason of infringement of one or more of claims 15–17 and 19 of the '123 patent; claims 1–3, 5–7, 9, 10, 12–18, 49, and 50 of the '359 patent; claims 1–4, 6–9, 15, 16, and 18–21 of the '439 patent; claims 11–13, 15, 17–19, and 21 of the '890 patent; and claims 1, 2, and 11 of the '486 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Aspen Aerogels, Inc., 30 Forbes Road, Building B, Northborough, MA 01532.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Nano Tech Co., Ltd., No. 9 Baichuan Road, Binhai New Area, Shaoxing, Zhejiang, China.

Guangdong Alison Hi-Tech Co., Ltd., Rm. 1202, Golden Lake Building, No. 2 Donghu Road West, Guangzhou, China.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 2, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–13467 Filed 6–7–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–974]

Certain Aquarium Fittings and Parts Thereof; Commission Determination Not To Review an Initial Determination Terminating the Investigation; Issuance of Consent Order and Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 10) terminating the above-captioned investigation based on a consent order stipulation, consent order, and settlement agreement. The Commission has issued the consent order and determined to terminate the investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 11, 2015, based on a complaint filed by HYDOR USA Inc. of Sacramento, California. 80 FR 77019–20 (Dec. 11, 2015). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of U.S. Patent No. 8,191,846. The complaint further alleged that a domestic industry exists. The Commission's Notice of Investigation named Jebao Co., Ltd. of Zhongshan City, China as the sole respondent.

On April 18, 2016, complainant and the sole respondent moved for termination of the investigation based on a consent order stipulation and a settlement agreement. The Commission investigative attorney supported the motion.

On May 4, 2016, the ALJ issued the subject ID (Order No. 10) granting the joint motion and finding that the motion for termination satisfies Commission Rules 210.21(a)(1) and (b)(1), termination is in the public interest, and that no ''extraordinary circumstances'' exist that would preclude granting the motion. No party petitioned for review of the ID.

The Commission has determined not to review the ID and has issued the consent order and terminated the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 2, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–13495 Filed 6–7–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0004]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Interstate Firearms Shipment Report of Theft/Loss (ATF F 3310.6)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 8, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Neil Troppman, National Tracing Center, Law Enforcement Support Branch, 244 Needy Road, Martinsburg, WV 25405, at telephone number: 304–260–3643.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83–I):* Extension, without change, of a currently approved collection.

2. *The Title of the Form/Collection:* Interstate Firearms Shipment Report of Theft/Loss.

3. *The agency form number, if any, and the applicable component of the Departmentsponsoring the collection:*

Form number (if applicable): ATF F 3310.6.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other (if applicable):

Abstract: 27 CFR part 478 of Federal Regulations requires Federal Firearms Licensees' who discovers a firearm it shipped was stolen or lost in transit, the transferor/sender FFL must report the theft or loss to ATF and to the appropriate local authorities within 48 hours of discovery.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 550 respondents will take 20 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 182 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: June 3, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–13520 Filed 6–7–16; 8:45 am]

BILLING CODE 4410–FY–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

SUMMARY: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, that the Operations and Regulations Committee (Committee) of the Board of Directors for the Legal Services Corporation (LSC) will hold its third and final Rulemaking Workshop (Workshop) to solicit public input on revisions to LSC's Cost Standards and Procedures and the Property Acquisition and Management Manual (PAMM).

DATE AND TIME: Wednesday, June 15, 2016, 1:30–4:30 p.m. EDT.

LOCATION: F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street NW., 3rd Floor, Washington DC 20007.

PUBLIC OBSERVATION AND PARTICIPATION: LSC encourages observation of and participation in the Workshop by interested individuals and organizations. The Workshop will be entirely open to public observation and will include opportunities for individuals who are not members of the panel to participate in person or via telephone. Persons interested in speaking during the public comment period are encouraged to pre-register by submitting a request in writing prior to close of business on Monday, June 13, 2016, to Stefanie K. Davis, Assistant General Counsel, at *sdavis@lsc.gov.* Those who pre-register will be scheduled to speak first. LSC will transcribe the meeting and make the transcript available to members of the public who are unable to attend. Transcripts, rulemaking materials, and workshop updates (if any) will be available at *http://www.lsc.gov/rulemaking-cost-standards-and-property-management-acquisition-and-disposal.* Individuals who wish to listen and/or participate in the proceedings remotely may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR PUBLIC OBSERVATION AND PARTICIPATION:

- Call toll-free number: 1–669–224–3412.
- When prompted, enter the following numeric pass code: 945–967–005.
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other

sound. The Workshop moderator will solicit public comment as provided in the following Workshop Agenda.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Introductory remarks.

- Charles N.W. Keckler, Chair, Operations and Regulations Committee

2. Panelist introductions.

- AnnaMarie Johnson, Nevada Legal Services
- Michael Maher, Legal Action of Wisconsin
- Frank Bittner, California Rural Legal Assistance
- Jose Padilla, California Rural Legal Assistance
- Shamim Huq, Legal Aid Society of Northeastern New York
- Dilip Shah, Legal Aid of Northwest Texas
- Steve Ogilvie, Inland Counties Legal Services
- Robin Murphy, National Legal Aid and Defender Association
- Nikole Nelson, Alaska Legal Services
- Tracey Janssen, Alaska Legal Services
- Steve Pelletier, Northwest Justice Project
- Diana White, Legal Assistance Foundation of Metropolitan Chicago

3. Introductory discussion regarding each panelist's experience working with OMB's Uniform Guidance.

4. Discussion regarding LSC's proposal to incorporate minimum standards for procurement policies similar to those in the Uniform Guidance.

5. Discussion regarding LSC's proposal to incorporate Uniform Guidance cost principles.

6. Discussion regarding LSC's proposal to adopt the Uniform Guidance's property disposition principles.

7. Summary of Rulemaking Workshops and other comments.

8. Public comment.

9. Closing remarks.

- Charles N.W. Keckler, Chair, Operations and Regulations Committee

CONTACT PERSON FOR INFORMATION: Stefanie K. Davis, Assistant General Counsel, at (202) 295–1563. Questions may be sent by electronic mail to *sdavis@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Stefanie K. Davis, at (202) 295–1563 or *sdavis@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: June 6, 2016.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2016–13644 Filed 6–6–16; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (16–040)]

NASA Advisory Council; Ad Hoc Task Force on STEM Education Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Ad Hoc Task Force on Science, Technology, Engineering and Mathematics (STEM) of the NASA Advisory Council (NAC). This Task Force reports to the NAC.

DATES: Wednesday, June 29, 2016, 10:00 a.m. to 5:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 9H40, Program Review Center, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Beverly Girten, Executive Secretary, NAC Ad Hoc Task Force on STEM Education, NASA Headquarters, Washington, DC, 202–358–0212, or *beverly.e.girten@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public telephonically and by WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may dial the toll free access number 844–467–6272 or toll access number 720–259–6462, and then the numeric participant passcode: 329152 followed by the # sign. To join via WebEx, the link is *https://nasa.webex.com/,* the meeting number is 992 384 106 and the password is BeverlyGirten1$ (Password is case sensitive.) NOTE: If dialing in, please ''mute'' your telephone. The agenda for the meeting will include the following:

—Opening Remarks by Chair

—Update on Education and Outreach Business Service Assessment

—Update on Plans to Implement Observations

—Funding Profile of Education Programs

—Broadening Participation Efforts

—Formulating Recommendations

—Other Related Topics

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Due to the Real ID Act, Public Law 109–13, any attendees with drivers licenses issued from non-compliant states/territories must present a second form of ID. [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the ''List of the Acceptable Documents'' on Form I–9]. Non-compliant states/territories are: American Samoa, Illinois, Minnesota, Missouri, New Mexico and Washington. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Dr. Beverly Girten via email at *beverly.e.girten@nasa.gov.* U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Dr. Beverly Girten. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2016–13562 Filed 6–7–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2016–033]

Privacy Act of 1974, as Amended; System of Records Notice

AGENCY: National Archives and Records Administration (NARA).

ACTION: Privacy Act system of records notice (SORN) of a new system, NARA 45.

SUMMARY: The National Archives and Records Administration (NARA) proposes to add a system of records to its existing inventory of systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552(a)) (''Privacy Act''). In this notice, NARA publishes NARA 45, Insider Threat Program records. In addition, NARA is updating Appendix B to add the SORN's system manager to the list of system managers and their addresses.

DATES: This new system of records, NARA 45, and Appendix B update will become effective July 18, 2016 without further notice unless we receive comments by July 8, 2016 that cause us to revise it. NARA will publish a new notice if we must delay the effective date to review comments or make changes.

ADDRESSES: You may submit comments, identified by ''SORN NARA 45,'' by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Regulation_comments@nara.gov.* Include SORN NARA 45 in the subject line of the message.
- *Mail (for paper, disk, or CD–ROM submissions. Include SORN NARA 45 on the submission):* Regulations Comment Desk, Strategy and Performance Division (SP); Suite 4100; National and Archives Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001.
- *Hand delivery or courier:* Deliver comments to front desk at the address above.

Instructions: All submissions must include NARA's name and SORN NARA 45. We may publish any comments we receive without changes, including any personal information you include.

FOR FURTHER INFORMATION CONTACT: For more information related to the SORN process, contact Kimberly Keravuori, External Policy Program Manager, by email at *regulation_comments@nara.gov,* or by telephone at 301–837–3151. For information on the records, contact Neil Carmichael, Insider Threat Program Director, by mail at National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, or by telephone at 301–837–3169.

SUPPLEMENTARY INFORMATION: The notice for this system of records states the record system's name and location, authority for and manner of operation, categories of individuals it covers, types of records it contains, sources of information in the records, and the ''routine uses'' for which the agency may use the information. Appendix B includes the business address of the NARA official you may contact to find out how you may access and correct records pertaining to yourself.

The Privacy Act provides certain safeguards for an individual against an invasion of personal privacy. It requires Federal agencies that disseminate any record of personally identifiable information to do so in a manner that assures the action is for a necessary and lawful purpose, the information is current and accurate for its intended use, and adequate safeguards are provided to prevent misuse of such information. NARA intends to follow these principles when transferring information to another agency or individual as a ''routine use,'' including assuring that the information is relevant for the purposes for which it is transferred.

In addition, the Privacy Act allows agencies to exempt from release certain information compiled for law enforcement purposes. By a separate, concurrent rulemaking action, NARA is exempting this system of records for that purpose. See the final rule published elsewhere in this issue of the **Federal Register**.

Dated: May 29, 2016.

David S. Ferriero,

Archivist of the United States.

NARA 45

SYSTEM NAME:

Insider Threat Program Records.

SYSTEM LOCATION:

The Office of the Chief Operating Officer at the National Archives in College Park maintains insider threat program records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include future, current, and former NARA employees, NARA contractors, employees and contractors of other Federal agencies who have access to classified information within NARA facilities, Presidential representatives at Presidential libraries, and members of the Public Interest Declassification Board. Other covered individuals include officials or employees of Federal, state, tribal, territorial, and local law enforcement organizations; complainants, informants, suspects, and witnesses; people with access to NARA facilities and infrastructure; members of the general public, including individuals and groups of individuals involved with insider threat matters, complaints, or incidents involving classified systems or classified information; individuals being investigated as potential insider threats; pose a threat to NARA operations, data, personnel, facilities, and systems; and foreign visitors or foreign contacts.

CATEGORIES OF RECORDS IN THE SYSTEM:

NARA maintains a centralized hub for insider threat analysis to (1) manually and electronically gather, integrate, review, assess, and respond to information derived from internal and external sources, and (2) identify potential insider threat concerns and conduct an appropriate inquiry to resolve the concern.

NARA monitors user activity on all information technology networks or stand-alone systems, including use by both cleared and un-cleared employees. The Insider Threat Program may use this monitoring information to detect activity that might indicate insider threat behavior. The system includes records from this activity, including monitoring logs and insider threat analyses. The Insider Threat Program may also make use of records from other NARA Privacy Act systems of records. When this occurs, records from those other systems will also become part of this system of records. The other systems of records involved include: NARA 7: Freedom of Information Act (FOIA) and Mandatory Review of Classified Documents Request Files; NARA 8: Restricted and Classified Records Access Authorization Files, NARA 11: Credentials and Passes; NARA 12: Emergency Notification Files and Employee Contact Information; NARA 14: Payroll, Attendance, Leave, Retirement, Benefits, and Electronic Reporting System Records; NARA 17: Grievance Records; NARA 18: General Law Files; NARA 19: Workers' Compensation Case Files; NARA 22: Employee-Related Files; NARA 23: Office of Inspector General Investigative Case Files; NARA 24: Personnel Security Files; NARA 26: Volunteer and Unpaid Student Intern Files; NARA 27: Contracting Officer and Contracting Officer's Representative (COR) Designation Files; NARA 28: Tort and Employee Claim Files; NARA 30:

Garnishment Files; NARA 32: Alternate Dispute Resolution Files; NARA 34: Agency Ethics Program Files; NARA 35: Case Management and Reporting System (CMRS); and NARA 43: Internal Collaboration Network (ICN).

In addition, this system of records may contain information from NARA offices, programs, databases, records, or sources, including incident reports, investigatory records, personnel security records, facility access records, network security records, security violations, travel records, foreign visitor records, foreign contact reports, financial disclosure reports, personnel records, medical records, information on complainants, informants, suspects, and witnesses, and records involving potential insider threats or activities.

All the records in this system of records may contain the following information on an individual: Name, social security number, date of birth, place of birth, security clearance, home address, work address, personal and official phone numbers, personal and official email addresses, other contact information, driver license number, vehicle identification number, license plate number, ethnicity and race, tribal identification number or other tribal enrollment data, work history, educational history, arrest reports, references to illegal drug involvement, mental health records including counseling related to use of alcohol or drugs, civil court action records, subversive activity information, outside affiliations, information on family members, dependents, relatives, and other personal associations, passport number, gender, fingerprints, hair and eye color, biometric data, and any other individual physical or distinguishing attributes. Investigation records and incident reports may include additional information on an individual, such as: Photos, video, sketches, medical reports, network use records, identification badge data, facility and access control records, email, and text messages.

The records may also include information concerning potential insider threat activity, counterintelligence complaints, investigative referrals, results of incident investigations, case numbers, forms, nondisclosure agreements, consent forms, documents, reports, and correspondence received, generated, or maintained in the course of managing insider threat activities and conducting investigations related to potential insider threats.

Finally, this system contains records of inquiries the hub creates in the course of managing the Insider Threat Program. An inquiry record is akin to a case file on a possible insider threat, and may contain any of the information described above, in addition to investigatory records such as interview notes, analysis of the potential threat, voluntary statements to investigators, and similar documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104(a), as amended; Section 811 of the Intelligence Authorization Act for FY 1995; Executive Orders 13587, 13526, 12333, and 10450; Presidential Memorandum, National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, November 21, 2012; Presidential Memorandum, Early Detection of Espionage and Other Intelligence Activities through Identification and Referral of Anomalies, August 23, 1996; and Presidential Decision Directive/NSC–12, Security Awareness and Reporting of Foreign Contacts, August 5, 1993.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains insider threat program records on people to: Manage insider threat matters; facilitate insider threat inquiries, investigations, and activities associated with counterintelligence complaints, inquiries, and investigations; identify potential threats; track referrals of potential insider threats to internal and external partners; provide statistical reports; and meet other insider threat reporting requirements.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside NARA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To the Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf, or for a purpose compatible to those for which the records are collected or maintained, to the extent the records have not been exempted from disclosure pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

(2) To an official of another Federal agency to provide information the agency needs to perform official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(3) To state, local, and tribal governments to provide information in response to a court order or litigation discovery requests, when disclosure is compatible with the purpose for which the records were compiled.

(4) To other appropriate agencies, entities, and people when:

(a) NARA suspects or confirms that the security or confidentiality of information in the system of records has been compromised; and

(b) NARA has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by NARA or another agency or entity) that rely upon the compromised information; and

(c) NARA discloses the information to such agencies, entities, and people who are reasonably necessary to assist in connection with NARA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(5) To the Office of Management and Budget during legislative coordination and clearance as mandated by OMB Circular A–19.

(6) To the Department of the Treasury to recover debts owed to the United States.

(7) To the Department of Justice, the Federal Bureau of Investigation, the Department of Homeland Security, and other Federal, state and local law enforcement agencies to refer potential insider threats to them and exchange information on insider threat activity.

(8) To any criminal, civil, or regulatory authority (whether Federal, state, territorial, local, or tribal) to provide background search information on individuals for legally authorized purposes, including but not limited to background checks on individuals residing in a home with a minor or individuals seeking employment opportunities requiring background checks. Routine uses A, B, C, D, E, F, G, and H listed in Appendix A also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Staff may retrieve information in these records by the employee's name, by search, or by any available field or metadata element recorded in the system.

SAFEGUARDS:

During normal hours of operation, NARA maintains paper records in areas accessible to authorized NARA personnel. Staff access electronic records via password-protected workstations located in attended offices or through a secure remote access network. After hours, buildings have security guards or secured doors, and electronic surveillance equipment monitors all entrances.

RETENTION AND DISPOSAL:

NARA insider threat program records are unscheduled records; NARA therefore retains them until the Archivist of the United States approves dispositions for them.

SYSTEM MANAGER AND ADDRESS:

The system manager for the insider threat program records is the Chief Operating Officer. The business addresses for system managers are listed in Appendix B.

NOTIFICATION PROCEDURE:

People inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B. However, NARA proposes to exempt portions of this system from the notification procedures of the Privacy Act, pursuant to section and (k)(2).

RECORDS ACCESS PROCEDURES:

People who wish to access their records should submit a request in writing to the NARA Privacy Act Officer at the address listed in Appendix B. However, NARA proposes to exempt portions of this system from the access procedures of the Privacy Act, pursuant to section and (k)(2).

CONTESTING RECORDS PROCEDURES:

NARA's rules for contesting the contents of your records and appealing initial determinations are in 36 CFR part 1202. However, NARA proposes to exempt portions of this system from the amendment procedures of the Privacy Act, pursuant to section and (k)(2).

RECORD SOURCE CATEGORIES:

NARA may obtain information in the system from NARA office and program officials, employees, contractors, and other individuals associated with or representing NARA; officials from other Federal, tribal, territorial, state, and local government organizations; relevant NARA records, databases, and files, including personnel security files, facility access records, security incident or violation files, network security records, investigatory records, visitor records, travel records, foreign visitor or contact reports, and financial disclosure reports; and complainants, informants, suspects, and witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system contains classified and unclassified intelligence and law enforcement investigatory records related to counterintelligence and insider threat activities that are exempt from certain provisions of the Privacy Act; specifically, 5 U.S.C. 552a(k)(2). Pursuant to subsection (k)(2), NARA exempts portions of this system from the following subsections of the Privacy Act: (c)(3), (d), (e)(1) and (e)(4)(G) and (H), and (f). In accordance with 5 U.S.C. 553(b), (c), and (e), NARA has promulgated Regulations Implementing the Privacy Act of 1974, at 36 CFR 1202, that establish this exemption (see 36 CFR 1202.92). NARA is concurrently revising its regulation to add this system of records, as published elsewhere in this issue of the **Federal Register**.

Appendix B

Records Inquiries and Requests:

To inquire about your records or to gain access to your records, you should submit your request in writing to: NARA Privacy Act Officer; Office of the General Counsel (NGC); National Archives and Records Administration; 8601 Adelphi Road, Room 3110; College Park, MD 20740–6001.

System Managers:

If the system manager is the Chief Human Capital Officer, the business address is: Office of Human Capital; National Archives and Records Administration; 8601 Adelphi Road, Room 1200; College Park, MD 20740–6001.

If the system manager is the Chief Information Officer, the business address is: Office of Information Services; National Archives and Records Administration; 8601 Adelphi Road, Room 4400; College Park, MD 20740–6001.

If the system manager is the Chief Innovation Officer, the business address is: Office of Innovation; National Archives and Records Administration; 8601 Adelphi Road, Room 3200; College Park, MD 20740–6001.

If the system manager is the Chief Operating Officer, the business address is: Office of the Chief Operating Officer; National Archives and Records Administration; 8601 Adelphi Road, Room 4200; College Park, MD 20740–6001.

If the system manager is the Chief Records Officer, the business address is: Office of the Chief Records Officer; National Archives and Records Administration; 8601 Adelphi Road, Room 2100; College Park, MD 20740.

If the system manager is the Chief Strategy and Communications Officer, the business address is: Office of Strategy and Communications; National Archives and Records Administration; 8601 Adelphi Road, Room 4100; College Park, MD 20740–6001.

If the system manager is the Designated Agency Ethics Official, the business address is: Office of the General Counsel; National Archives and Records Administration; 8601 Adelphi Road, Room 3110; College Park, MD 20740–6001.

If the system manager is the Director, National Personnel Records Center, the business address is: National Personnel Records Center, 1 Archives Drive, St. Louis, MO 63138. If the system manager is the director of an individual Presidential library, the business address is the relevant Presidential library:

George H.W. Bush Library, 1000 George Bush Drive West, College Station, TX 77845
George W. Bush Library, 2943 SMU Boulevard, Dallas, TX 75205
Jimmy Carter Library, 441 Freedom Parkway, Atlanta, GA 30307–1498
William J. Clinton Library, 1200 President Clinton Avenue, Little Rock, AR 72201
Dwight D. Eisenhower Library, 200 SE 4th Street, Abilene, KS 67410–2900
Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, MI 48109–2114
Herbert Hoover Library, 210 Parkside Drive, P.O. Box 488, West Branch, IA 52358–0488
Lyndon B. Johnson Library, 2313 Red River Street, Austin, TX 78705–5702
John F. Kennedy Library, Columbia Point, Boston, MA 02125–3398
Richard Nixon Library, 1800 Yorba Linda Boulevard, Yorba Linda, CA 92886
Ronald Reagan Library, 40 Presidential Drive, Simi Valley, CA 93065–0600
Franklin D. Roosevelt Library, 4079 Albany Post Road, Hyde Park, NY 12538–1999
Harry S. Truman Library, 500 West U.S. Highway 24, Independence, MO 64050–1798

If the system manager is the Director, Office of Equal Employment Opportunity, the business address is: Office of Equal Employment Opportunity; National Archives and Records Administration; 8601 Adelphi Road, Room 3310, College Park, MD 20740–6001.

If the system manager is the Director of the Center for Legislative Archives, the business address is: The Center for Legislative Archives; National Archives and Records Administration; 700 Pennsylvania Ave. NW., Washington, DC 20408–0001.

If the system manager is the Director of the Federal Register, the business address is: Office of the Federal Register; National Archives and Records Administration; 800 North Capitol Street NW., Washington, DC 20002.

If the system manager is the Director of the Office of Presidential Libraries, the business address is the Office of Presidential Libraries; National Archives and Records Administration; 8601 Adelphi Road, Room 2200, College Park, MD 20740–6001.

If the system manager is the Director of the Presidential Materials Division, the business address is: Presidential Materials Division; National Archives and Records Administration; 700 Pennsylvania Ave. NW., Room 104, Washington, DC 20408–0001.

If the system manager is the Director of the Washington National Records Center, the records are located at the following address: Washington National Records Center; National Archives and Records Administration; 4205 Suitland Road, Suitland, MD 20746–8001.

If the system manager is the Executive Director of the National Historical Publications and Records Commission, the business address is: National Historical Publications and Records Commission; National Archives and Records Administration; 700 Pennsylvania Avenue NW., Room 114, Washington, DC 20408–0001.

If the system manager is the Executive for Agency Services, the business address is: Office of Agency Services; National Archives and Records Administration; 8601 Adelphi Road, Room 3600, College Park, MD 20740–6001.

If the system manager is the Executive for Business Support Services, the business address is: Office of Business Support Services; National Archives and Records Administration; 8601 Adelphi Road, Room 5100, College Park, MD 20740–6001.

If the system manager is the Executive for Information Services, the business address is: Office of Information Services; National Archives and Records Administration; 8601 Adelphi Road, Room 4400, College Park, MD 20740–6001.

If the system manager is the Executive for Legislative Archives, Presidential Libraries, and Museum Services, the business address is the Office of Legislative Archives, Presidential Libraries, and Museum Services; National Archives and Records Administration; 700 Pennsylvania Avenue NW., Room 104, Washington, DC 20408–0001.

If the system manager is the Executive for Research Services, the business address is: Office of Research Services; National Archives and Records Administration; 8601 Adelphi Road, Room 3400, College Park, MD 20740–6001.

If the system manager is the General Counsel, the business address is: Office of the General Counsel; National Archives and Records Administration; 8601 Adelphi Road, Room 3110, College Park, MD 20740–6001.

If the system manager is the Inspector General, the business address is: Office of the Inspector General; National Archives and Records Administration; 8601 Adelphi Road, Room 1300, College Park, MD 20740–6001.

[FR Doc. 2016–13600 Filed 6–7–16; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Renew an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by August 8, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

For Additional Information or Comments: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for Nanoscale Science and Engineering Centers (NSECs).

OMB Number: 3145–0229.

Expiration Date of Approval: September 30, 2016.

Type of Request: Intent to seek approval to renew an information collection.

Overview of This Information Collection: The Nanoscale Science and Engineering Centers (NSECs) Program supports innovation in the integrative conduct of research, education, and knowledge transfer. NSECs build intellectual and physical infrastructure within and between disciplines, weaving together knowledge creation, knowledge integration, and knowledge transfer. NSECs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. New knowledge thus created is meaningfully linked to society.

NSECs enable and foster excellent education, integrate research and education, and create bonds between learning and inquiry so that discovery and creativity more fully support the learning process. NSECs capitalize on diversity through participation in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

NSECs will be required to submit annual reports on progress and plans, which will be used as a basis for performance review and determining the level of continued funding. To support this review and the management of a Center, NSECs will be required to develop a set of management and performance indicators for submission annually to NSF via the Research Performance Project Reporting module in *Research.gov* and an external technical assistance contractor that collects programmatic data electronically. These indicators are both quantitative and descriptive and may include, for example, the characteristics of center personnel and students; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents, licenses; publications; degrees granted to students involved in Center activities; descriptions of significant advances and other outcomes of the NSEC effort. Such reporting requirements will be included in the cooperative agreement which is binding between the academic institution and the NSF.

Each Center's annual report will address the following categories of activities: (1) Research, (2) education, (3) knowledge transfer, (4) partnerships, (5) diversity, (6) management and (7) budget issues.

For each of the categories the report will describe overall objectives for the year, problems the Center has encountered in making progress towards goals, anticipated problems in the following year, and specific outputs and outcomes.

NSECs are required to file a final report through the RPPR and external technical assistance contractor. Final reports contain similar information and metrics as annual reports, but are retrospective.

Use of the Information: NSF will use the information to continue funding of the Centers, and to evaluate the progress of the program.

Estimate of Burden: 200 hours per center for thirteen centers for a total of 2600 hours.

Respondents: Non-profit institutions.

Estimated Number of Responses per Report: One from each of the thirteen NSECs.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of

information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: June 2, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–13449 Filed 6–7–16; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Forum

On Tuesday and Wednesday, June 21 and 22, 2016, the National Transportation Safety Board (NTSB) will convene a forum titled *PIREPs: Pay it Forward . . . Because Weather for One, is Weather for None.* The forum will begin at 9:00 a.m. each day and is open to all. Attendance is free, and no registration is required. NTSB Board Member Robert L. Sumwalt will serve as the presiding officer of the forum. Invited panelists will include representatives from the Federal Aviation Administration, National Weather Service, airlines, researchers, and industry and advocacy groups.

Below is the preliminary agenda.

Tuesday, June 21, 2016 (9:00 a.m. to 5:00 p.m.)

1. Opening Statement by Member Sumwalt
2. Staff Presentation on PIREP and Weather Dissemination
3. Presentations on *Use and Significance of PIREPs to Weather Services, Air Traffic Controllers, Pilots, and Researchers*
4. Questions from the Technical Panel and Member Sumwalt
5. Presentations on *PIREP Submission, Solicitation, and Dissemination*
6. Questions from the Technical Panel and Member Sumwalt
7. Roundtable discussion with panelists and other industry stakeholders moderated by Member Sumwalt

Wednesday, June 22, 2016 (9:00 a.m. to 5:00 p.m.)

1. Opening Statement by Member Sumwalt
2. Presentations on *Training, Education, and Operations*
3. Questions from the Technical Panel and Member Sumwalt
4. Presentations on *Future Improvements and Emerging Technologies*
5. Questions from the Technical Panel and Member Sumwalt
6. Roundtable discussion with panelists and other industry stakeholders moderated by Member Sumwalt

Unless otherwise noted, the forum will be held in the NTSB Board Room and Conference Center, located at 429 L'Enfant Plaza SW., Washington, DC. The public can view the forum in person or via live webcast at *http://ntsb.capitolconnection.org/.* Webcast archives are generally available by the end of the day after the forum, and webcasts are archived for 3 months after the date of the event.

Individuals requiring reasonable accommodation and/or wheelchair access directions should contact Rochelle McCallister at (202) 314–6305 or by email at *Rochelle.McCallister@ntsb.gov* by Tuesday, June 14, 2016.

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

NTSB Media Contact: Peter Knudson—*Peter.Knudson@ntsb.gov.*

NTSB Forum Manager: Brian Soper—*Brian.Soper@ntsb.gov.*

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2016–13509 Filed 6–7–16; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0241]

Fuel Retrievability in Spent Fuel Storage Applications

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim staff guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Interim Staff Guidance (ISG)-2, Revision 2, ''Fuel Retrievability in Spent Fuel Storage Applications.'' This revision to the guidance was developed to improve regulatory clarity due to uncertain duration of spent fuel storage in an independent spent fuel storage installation (ISFSI). The revision is to provide improved guidance to the staff on the practical implementation of determining whether storage systems are designed to allow ready retrieval of spent fuel.

DATES: This guidance is effective on June 8, 2016.

ADDRESSES: Please refer to Docket ID NRC–2015–0241 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0241. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The final ISG–2, Revision 2, and responses to public comments are available electronically in ADAMS under Accession Nos. ML16117A080 and ML16117A082, respectively.
- 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: Emma Wong, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–7091, email: *Emma.Wong@nrc.gov* and Haile Lindsay, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–0616, email: *Haile.Linsday@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC staff has developed ISG–2, Revision 2, ''Fuel Retrievability in Spent Fuel Storage Applications,'' to clarify section 72.122(l) of title 10 of the *Code of Federal Regulations* (10 CFR), Retrievability. By the use of options to meet ready retrieval, this guidance focuses on safety and design bases to allow maximum flexibility to meet retrievability for the longer storage duration. With the increased flexibility in the guidance to meet retrievability, evaluations of the internal components of the cask or canister may no longer be necessary for maintaining the ability to

remove the individual fuel assemblies by the use of normal means (*e.g.,* degradation of the internal components such as radiation damage to internal components, depletion of the neutron absorbing material, Boral blistering, fuel degradation, and basket degradation) for the retrievability safety function. However, if these components' intended functions are relied upon for safety, these components would need to be evaluated for those safety functions which may include retrieval of the individual fuel assemblies safely.

II. Public Comments

The NRC issued draft ISG–2, Revision 2 (ADAMS Accession No. ML15239A683) in the **Federal Register** on October 21, 2015 (80 FR 63843), for a 30-day public comment period and received comments from the following sources:

Document	ADAMS Accession No.
Kristopher Cummings (Nuclear Energy Institute (NEI)) dated November 16, 2015	ML15337A082
Robert Einziger, dated November 13, 2015	ML15324A253
Donna Gilmore (San Onofre Safety), dated November 20, 2015	ML15337A007
Patricia Borchmann, dated November 20, 2015	ML15337A010
Marv Lewis, dated November 21, 2015, and November 26, 2015	ML15337A009 ML15337A012
Diane D'Arrigo (Nuclear Information and Resource Service (NIRS)), dated November 20, 2015	ML15337A011
Connecticut Yankee Atomic Power Company, dated November 17, 2015	ML15337A083
Yankee Atomic Electric Company, dated November 17, 2015	ML15337A083
Maine Yankee Atomic Power Company, dated November 17, 2015	ML15337A083
Richard Morgal, dated November 20, 2015	ML15337A084 ML15337A008

The NRC considered these comments in developing the final ISG. Detailed responses to the comments can be found in ML16117A082.

The final ISG–2, Revision 2 is approved for NRC staff and stakeholder use and will be incorporated into the NRC's next standard review plan guidance revision.

III. Congressional Review Act

This ISG is a rule as defined in the Congressional Review Act (§ 5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This ISG provides guidance to the NRC staff for reviewing an application for an ISFSI license with respect to compliance with the retrievability requirement of 10 CFR 72.122(l). Issuance of the ISG does not constitute backfitting as defined in sections 72.62 and 50.59. Issuance of this ISG is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52 for generally licensed ISFSIs. The staff's position is based upon the following considerations.

1. The ISG does not constitute backfitting, inasmuch as the ISG is internal guidance to the NRC staff.

The ISG provides interim guidance to the staff on how to review an application for NRC's regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either ISFSI or nuclear power plant applicants or licensees are protected under the backfitting provisions in 10 CFR parts 50 or 72, or the issue finality provisions of 10 CFR part 52.

2. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by the backfitting provisions in sections 72.62 or 50.109, or any issue finality provisions under 10 CFR part 52. This is because neither the backfitting provisions nor the issue finality provisions under 10 CFR part 52—with certain exclusions discussed below—were intended to apply to every NRC action which substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule) with specified issue finality provisions. However, the matters covered in this ISG are not subject matters or issues for which issue finality protection is provided.

3. The NRC staff has no intention to impose the ISG on existing ISFSI or nuclear power plant licensees either now or in the future (absent a voluntary request for change from the licensee).

The NRC does not intend to impose or apply the positions described in this ISG to existing (already issued) licenses (*e.g.,* ISFSI licenses, operating licenses and combined licenses) absent a voluntary request for a change from the licensee. Hence, the ISG need not be evaluated as if it were a backfit.

Dated at Rockville, Maryland, this 2nd day of June, 2016.

For the Nuclear Regulatory Commission.

Bo Pham,

Acting Deputy Director, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–13569 Filed 6–7–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene a teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on June 24, 2016, to discuss the draft report of the ACMUI Radioactive Seed Localization (RSL) Subcommittee and discuss potential rulemaking to expand the financial assurance requirements for some radioactive byproduct material. The RSL report will include the subcommittee's comments on the draft RSL licensing guidance. For the second topic, NRC staff will summarize the results of a recently completed scoping study to determine whether financial planning requirements for decommissioning and end-of-life management for some radioactive byproduct material, are necessary. NRC staff believes that the financial assurance requirements in Title 10 of the *Code of Federal*

Regulations (10 CFR) Section 30.35 should be expanded to include all byproduct material Category 1 and 2 radioactive sealed sources tracked in the National Source Tracking System. Meeting information, including a copy of the agenda and handouts, will be available at *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2016.html.* The agenda and handouts may also be obtained by contacting Ms. Sophie Holiday using the information below.

DATES: The teleconference meeting will be held on Friday, June 24, 2016, 3:00 p.m. to 5:00 p.m. Eastern Time.

Public Participation: Any member of the public who wishes to participate in the teleconference should contact Ms. Holiday using the contact information below.

Contact Information: Sophie Holiday, email: *sophie.holiday@nrc.gov,* telephone: (301) 415–7865.

Conduct of the Meeting

Dr. Philip Alderson, ACMUI Chairman, will preside over the meeting. Dr. Alderson will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Holiday at the contact information listed above. All submittals must be received by June 21, 2016, 3 business days prior to the meeting, and must pertain to the topic on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meetings, at the discretion of the Chairman.

3. The draft transcript and meeting summary will be available on ACMUI's Web site *http://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2016.html* on or about August 08, 2016.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in 10 CFR part 7.

Dated at Rockville, Maryland, this 2nd day of June 2016.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2016–13552 Filed 6–7–16; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77983; File No. SR–MIAX–2016–15]

Self-Regulatory Organizations: Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 1015, Disciplinary Functions

June 2, 2016.

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 May 27, 2016, 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, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 1015, Disciplinary Functions, Interpretations and Policies .01, to state that the Exchange has entered into a contract with the Financial Industry Regulatory Authority (''FINRA'') and to remove obsolete references to the Chicago Board Options Exchange, Inc. (''CBOE'') from the Rule.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 1015, Disciplinary Functions, to remove two references to CBOE from current Interpretations and Policies .01 to the Rule. The current rule states that the Exchange intends to enter into a contract with FINRA and/or CBOE to provide professional hearing officers and to act as an agent of the Exchange with respect to the disciplinary procedures of the Exchange.

The Exchange has entered into a contract with FINRA to provide professional hearing officers and to act as an agent of the Exchange with respect to the disciplinary procedures of the Exchange. Certain regulatory services previously offered by CBOE are now being provided by FINRA. Therefore the reference to CBOE is obsolete as it is no longer feasible to contemplate entering into an agreement with CBOE as articulated in the current rule.

Additionally, the current Rule includes a second reference to CBOE which is also now obsolete, that states that a professional hearing officer, in the course of discharging his responsibilities, shall apply the standards contained in the FINRA Industry Code of Procedure and/or CBOE Rules Chapter XVII, and policies, practices and interpretations thereof. The Exchange proposes to delete this reference as well.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of Section 6(b)(5) of the Act [4] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

The proposed rule change is designed to protect investors and the public interest and to promote just and equitable principles of trade by eliminating obsolete references to CBOE from its rules relating to its regulatory

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

function. It is intended to foster cooperation and coordination with persons engaged in facilitating transactions in securities by accurately informing Members and the investing public of the Exchange's arrangements that satisfy its regulatory obligations under the Act. It is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

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 designed to address any competitive issues but rather is designed to clarify the current rule and eliminate the potential for confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [5] and Rule 19b–4(f)(6) [6] thereunder.

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.

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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–2016–15 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–MIAX–2016–15. 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–MIAX–2016–15, and should be submitted on or before June 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13483 Filed 6–7–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77978; File No. SR–NYSEMKT–2016–15]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, To Establish Certain End User Fees, Amend the Definition of Affiliate, and Amend the Co-Location Section of the Fee Schedule To Reflect the Changes

June 2, 2016.

On April 4, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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 establish fees relating to certain end users, amend the definition of Affiliate, and amend the co-location section of the Fee Schedule to reflect the changes. The Commission published the proposed rule change for comment in the **Federal Register** on April 22, 2016.[3] On April 29, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comments on the proposed rule change.[5]

Section 19(b)(2) of the Act [6] provides that, within 45 days of the publication of the notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–77640 (April 18, 2016), 81 FR 23780 (''Notice'').

[4] Amendment No. 1 made technical changes relating to the General Notes numbering and references in the Co-location section of the Fee Schedule.

[5] The Commission notes that it did receive two comment letters on a related filing, NYSE–2016–11, which are equally relevant to this filing.

[6] 15 U.S.C. 78s(b)(2).

proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[7] designates July 21, 2016, as the date by which the Commission should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–NYSEMKT–2016–15), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13476 Filed 6–7–16; 8:45 am]

BILLING CODE 8011–01–P

[7] *Id.*

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77977; File No. SR–NYSEArca–2016–19]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, To Establish Certain End User Fees, Amend the Definition of Affiliate, and Amend the Co-Location Section of the Fee Schedule To Reflect the Changes

June 2, 2016.

On April 4, 2016, NYSE Arca, Inc. (the ''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 establish fees relating to certain end users, amend the definition of Affiliate, and amend the co-location section of the Fee Schedule to reflect the changes. The Commission published the proposed rule change for comment in the **Federal Register** on April 22, 2016.[3] On April 29, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comments on the proposed rule change.[5]

Section 19(b)(2) of the Act[6] provides that, within 45 days of the publication of the notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[7] designates July 21, 2016, as the date by which the Commission should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–NYSEArca–2016–19), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13475 Filed 6–7–16; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–77641 (April 18, 2016), 81 FR 23773 (''Notice'').

[4] Amendment No. 1 made technical changes relating to the General Notes numbering and references in the Co-location section of the Fee Schedule.

[5] The Commission notes that it did receive two comment letters on a related filing, NYSE–2016–11, which are equally relevant to this filing.

[6] 15 U.S.C. 78s(b)(2).

[7] *Id.*

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–32138; File No. 812–14426]

Carey Credit Income Fund, et al.; Notice of Application

June 2, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain business development companies (''BDC'') and closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

Applicants: Carey Credit Income Fund (the ''Fund''); Carey Credit Advisors, LLC (''W.P. Carey''); Guggenheim Partners Investment Management, LLC (''Guggenheim''); Guggenheim Funds Distributors, LLC, Guggenheim Funds Investment Advisors, LLC, Security Investors, LLC (collectively, together with Guggenheim, the ''Existing Guggenheim Advisers''); Guggenheim European Credit Fund, Guggenheim Private Debt Fund Note Issuer, LLC, Guggenheim Private Debt Fund, LLC, Guggenheim Private Debt Fund, Ltd., Guggenheim Private Debt Master Fund, LLC, Guggenheim Private Debt Fund Note Issuer 2.0, LLC, Guggenheim Private Debt Fund 2.0, LLC, Guggenheim Private Debt Fund 2.0, Ltd., Guggenheim Private Debt Master Fund 2.0, LLC, NZC Guggenheim Fund LLC, NZC Guggenheim Fund Limited, NZC Guggenheim Master Fund Limited, NZCG Funding Ltd., NZCG Funding 2 Limited, South Dock Funding Limited, NZCG Feeder I, L.P., NZCG Funding 2, LLC, NZCG Funding LLC, Guggenheim U.S. Loan Fund, Guggenheim U.S. Loan Fund II, Guggenheim U.S. Loan Fund III, Guggenheim Opportunistic U.S. Loan and Bond Fund IV, Guggenheim Loan and Bond Fund V, Guggenheim Loan and Bond Fund VI, GFI Fund, and GHY Fund (collectively, the ''Existing Affiliated Investors'').

Filing Dates: The application was filed on February 23, 2015, and amended on June 12, 2015, October 20, 2015, February 25, 2016 and April 29, 2016.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 27, 2016, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a

hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: W.P. Carey and the Fund: 50 Rockefeller Plaza, New York, NY 10020; the Existing Guggenheim Advisers and the Existing Affiliated Investors: 100 Wilshire Boulevard, 5th Floor, Santa Monica, CA 90401.

FOR FURTHER INFORMATION CONTACT: Robert Shapiro, Senior Counsel, at (202) 551–7758 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Fund is a Delaware statutory trust organized as a closed-end management investment company that has elected to be regulated as a BDC under the Act.[1] The Fund serves as the master fund in a master-feeder structure with two feeder funds and makes investments with the proceeds it receives from the sale of shares of the feeder funds.[2] The Fund's Objectives and Strategies [3] are to provide shareholders with current income, capital preservation and, to a lesser extent, long-term capital appreciation. The Fund invests primarily in large, privately-negotiated loans to private middle market U.S. companies and in opportunities that are originated by various intermediaries where the Fund is able to play a differentiated role gaining outsized allocation, influencing structure, pricing, and fees compared to the broader market (this could include more broadly syndicated assets such as bank loans and corporate bonds). The Fund has a five member Board,[4] of which three members are Independent Trustees.[5]

2. W.P. Carey is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). W.P. Carey serves as the investment adviser to the Fund. W.P. Carey also provides administrative services to the Fund under an administrative services agreement.

3. Guggenheim is a Delaware limited liability company and is registered as an investment adviser under the Advisers Act. Guggenheim serves as the sub-adviser to the Fund. Guggenheim is part of the investment management business of Guggenheim Partners LLC, a privately held, global financial services firm.

4. Each Existing Affiliated Investor is a privately-offered fund that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. An Existing Guggenheim Adviser serves as the investment adviser to each Existing Affiliated Investor. Each Existing Guggenheim Adviser is either controlled by Guggenheim or under common control with Guggenheim and is registered as an investment adviser under the Advisers Act.

5. Applicants seek an order (''Order'') to permit one or more Regulated Entities [6] and/or one or more Affiliated Investors [7] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under sections 17(d) and 57(a)(4) and the rules under the Act. For purposes of the application, ''Co-Investment Transaction'' means any transaction in which a Regulated Entity (or its Wholly-Owned Investment Subsidiary, as defined below) participated together with one or more other Regulated Entities and/or one or more Affiliated Investors in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Entity (or its Wholly-Owned Investment Subsidiary) could not participate together with one or more Affiliated Investors and/or one or more other Regulated Entities without obtaining and relying on the Order.[8] The term ''Adviser'' means any W.P. Carey Adviser or any Guggenheim Adviser.

6. Applicants state that a Regulated Entity may, from time to time, form a Wholly-Owned Investment Subsidiary.[9] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Affiliated Investor because it would be a company controlled by its parent Regulated Entity for purposes of section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Subsidiary be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Entity and that the Wholly-Owned Investment Subsidiary's participation in any such transaction be treated, for purposes of the requested Order, as though the parent Regulated

[1] Section 2(a)(48) of the Act defines a ''BDC'' to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities

[2] The existing feeder funds are Carey Credit Income Fund—I and Carey Credit Income Fund 2016 T. Any future feeder fund will be created by W.P. Carey.

[3] ''Objectives and Strategies'' means a Regulated Entity's (as defined below) investment objectives and strategies, as described in the Regulated Entity's registration statement on Form N–2, other filings the Regulated Entity has made with the Commission under the Securities Act of 1933 (the ''Securities Act''), or under the Securities Exchange Act of 1934, and the Regulated Entity's reports to shareholders.

[4] The term ''Board'' refers to the board of directors or trustees of any Regulated Entity.

[5] The term ''Independent Trustees'' refers to the trustees or directors of any Regulated Entity that are not ''interested persons'' of the Regulated Entity within the meaning of section 2(a)(19) of the Act.

[6] ''Regulated Entity'' means the Fund and any Future Regulated Entity. ''Future Regulated Entity'' means a closed-end management investment company (a) that is registered under the Act or has elected to be regulated as a BDC under the Act, (b) whose investment adviser is a W.P. Carey Adviser and (c) whose investment sub-adviser is a Guggenheim Adviser. ''W.P. Carey Adviser'' means W.P. Carey or any future investment adviser that (i) controls, is controlled by or is under common control with W.P. Carey, (ii) is registered as an investment adviser under the Advisers Act and (iii) is not a Regulated Entity or a subsidiary of a Regulated Entity. ''Guggenheim Adviser'' means any Existing Guggenheim Adviser or any future investment adviser that (i) controls, is controlled by or is under common control with Guggenheim, (ii) is registered as an investment adviser under the Advisers Act, and (iii) is not a Regulated Entity or a subsidiary of a Regulated Entity.

[7] ''Affiliated Investors'' means the Existing Affiliated Investors and any Future Affiliated Investor. ''Future Affiliated Investor'' means an entity (a) whose investment adviser is a Guggenheim Adviser and (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

[8] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[9] The term ''Wholly-Owned Investment Subsidiary'' means an entity (i) that is wholly-owned by a Regulated Entity (with such Regulated Entity at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Entity (and, in the case of an entity that is licensed by the Small Business Administration to operate under the Small Business Investment Act of 1958, as amended (the ''SBA Act''), as a small business investment company (an ''SBIC''), to maintain a license under the SBA Act and issue debentures guaranteed by the Small Business Administration); (iii) with respect to which the Regulated Entity's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. All subsidiaries participating in the Co-Investment Program will be Wholly-Owned Investment Subsidiaries and will have Objectives and Strategies that are either substantially the same as, or a subset of, their parent Regulated Entity's Objectives and Strategies. A subsidiary that is an SBIC may be a Wholly-Owned Investment Subsidiary if it satisfies the conditions in this definition.

Entity were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Subsidiary would have no purpose other than serving as a holding vehicle for the Regulated Entity's investments and, therefore, no conflicts of interest could arise between the Regulated Entity and the Wholly-Owned Investment Subsidiary. The Regulated Entity's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Subsidiary's participation in a Co-Investment Transaction, and the Regulated Entity's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Subsidiary in the Regulated Entity's place. If the Regulated Entity proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subsidiaries, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Entity and the Wholly-Owned Investment Subsidiary.

7. It is anticipated that a Guggenheim Adviser will periodically determine that certain investments the Guggenheim Adviser recommends for a Regulated Entity would also be appropriate investments for one or more other Regulated Entities and/or one or more Affiliated Investors. Such a determination may result in the Regulated Entity, one or more other Regulated Entities and/or one or more Affiliated Investors co-investing in certain investment opportunities. For each such investment opportunity, the Advisers to each Regulated Entity will independently analyze and evaluate the investment opportunity as to its appropriateness for such Regulated Entity taking into consideration the Regulated Entity's Objectives and Strategies.

8. Applicants state that W.P. Carey serves as the Fund's investment adviser and administrator and either it or another W.P. Carey Adviser will serve in the same capacity to any Future Regulated Entity, and that Guggenheim serves as the Fund's sub-adviser and either it or another Guggenheim Adviser will serve in the same capacity to any Future Regulated Entity. Applicants represent that although a Guggenheim Adviser will identify and recommend investments [10] for each Regulated Entity, prior to any investment by the Regulated Entity, the Guggenheim Adviser will present each proposed investment to the W.P. Carey Adviser which has the authority to approve or reject all investments proposed for the Regulated Entity by the Guggenheim Adviser.

9. Applicants state that each Guggenheim Adviser has (or will have, in the case of future advisers) an investment committee through which it will carry out its obligation under condition 1 to make a determination as to the appropriateness of a Potential Co-Investment Transaction for each Regulated Entity. Applicants represent that each Guggenheim Adviser, as a registered investment adviser, has (or will have, in the case of future advisers) developed a robust allocation process that is designed to allocate investment opportunities fairly and equitably among its clients over time. Applicants state that, in the case of a Potential Co-Investment Transaction, the applicable Guggenheim Adviser would apply its allocation policies and procedures in determining the proposed allocation for the Regulated Entity consistent with the requirements of condition 2(a).

10. Applicants state that, once the applicable Guggenheim Adviser determined a proposed allocation for a Regulated Entity, such Guggenheim Adviser would notify the applicable W.P. Carey Adviser of the Potential Co-Investment Transaction and the Guggenheim Adviser's recommended allocation for such Regulated Entity. Applicants further state that the applicable W.P. Carey Adviser would then present the Potential Co-Investment Transaction and the Guggenheim Adviser's proposed allocation to the W.P. Carey Adviser's investment committee for its approval. Applicants represent that the W.P. Carey Adviser's investment committee would review the Guggenheim Adviser's recommendation for the Regulated Entity and would have the ability to ask questions of the Guggenheim Adviser and request additional information from the Guggenheim Adviser. Applicants further submit that if the W.P. Carey Adviser's investment committee approved the investment for the Regulated Entity, the investment and all relevant allocation information would then be presented to the Regulated Entity's Board for its approval in accordance with the conditions to the application. Applicants state that they believe the investment process between the Guggenheim Advisers and the W.P. Carey Advisers, prior to seeking approval from the Regulated Entity's Board (which is in addition to, rather than in lieu of, the procedures required under the conditions of the application), is significant and provides for additional procedures and processes to ensure that the Regulated Entity is being treated fairly in respect of Potential Co-Investment Transactions.

11. If the Advisers to a Regulated Entity determine that a Potential Co-Investment Transaction is appropriate for the Regulated Entity (and the applicable W.P. Carey Adviser approves the investment for such Regulated Entity), and one or more other Regulated Entities and/or one or more Affiliated Investors may also participate, the Advisers will present the investment opportunity to the Eligible Trustees [11] of the Regulated Entity prior to the actual investment by the Regulated Entity. As to any Regulated Entity, a Co-Investment Transaction will be consummated only upon approval by a required majority of the Eligible Trustees of such Regulated Entity within the meaning of section 57(o) of the Act (''Required Majority'').[12]

12. With respect to the pro rata dispositions and follow-on Investments provided in conditions 7 and 8, a Regulated Entity may participate in a pro rata disposition or follow-on investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Entity and Affiliated Investor in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or follow-on investment, as the case may be; and (ii) each Regulated Entity's Board has approved that Regulated Entity's participation in pro rata dispositions and follow-on investments as being in the best interests of the Regulated Entity. If the Board does not so approve, any such disposition or follow-on investment will be submitted to the Regulated Entity's Eligible Trustees. The Board of any Regulated Entity may at any time rescind, suspend or qualify its approval of pro rata dispositions and follow-on investments with the result that all dispositions and/or follow-on investments must be submitted to the Eligible Trustees.

[10] Applicants represent that the W.P. Carey Advisers will not source any Potential Co-Investment Transactions under the requested Order.

[11] ''Eligible Trustees'' means the trustees or directors of a Regulated Entity that are eligible to vote under section 57(o) of the Act.

[12] In the case of a Regulated Entity that is a registered closed-end fund, the trustees or directors that make up the Required Majority will be determined as if the Regulated Entity were a BDC subject to section 57(o). As defined in section 57(o), ''required majority'' means ''both a majority of a business development company's directors or general partners who have no financial interest in such transaction, plan, or arrangement and a majority of such directors or general partners who are not interested persons of such company.''

13. No Independent Trustee of a Regulated Entity will have a financial interest in any Co-Investment Transaction.

14. Under condition 15, if an Adviser or its principals, or any person controlling, controlled by, or under common control with the Adviser or its the principals, and any Affiliated Investors (collectively, the ''Holders'') own in the aggregate more than 25% of the outstanding voting securities of a Regulated Entity (''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Trustees will act independently in evaluating the Co-Investment Program, because the ability of the Adviser or its principals to influence the Independent Trustees by a suggestion, explicit or implied, that the Independent Trustees can be removed will be limited significantly. Applicants represent that the Independent Trustees shall evaluate and approve any such independent third party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit participation by a registered investment company and an affiliated person in any ''joint enterprise or other joint arrangement or profit-sharing plan,'' as defined in the rule, without prior approval by the Commission by order upon application. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Entities that are registered closed-end investment companies. Similarly, with regard to BDCs, section 57(a)(4) of the Act makes it unlawful for any person who is related to a BDC in a manner described in section 57(b), acting as principal, knowingly to effect any transaction in which the BDC (or a company controlled by such BDC) is a joint or a joint and several participant with that person in contravention of rules as prescribed by the Commission. Because the Commission has not adopted any rules expressly under section 57(a)(4), section 57(i) provides that the rules under section 17(d) applicable to registered closed-end investment companies (*e.g.,* rule 17d–1) are, in the interim, deemed to apply to transactions subject to section 57(a). Rule 17d–1, as made applicable to BDCs by section 57(i), prohibits any person who is related to a BDC in a manner described in section 57(b), as modified by rule 57b–1, from acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the BDC (or a company controlled by such BDC) is a participant, unless an application regarding the joint enterprise, arrangement, or profit-sharing plan has been filed with the Commission and has been granted by an order entered prior to the submission of the plan or any modification thereof, to security holders for approval, or prior to its adoption or modification if not so submitted.

2. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants submit that each Regulated Entity may be deemed to be an ''affiliated person'' of each other Regulated Entity within the meaning of section 2(a)(3) of the Act. Applicants state that the Regulated Entities, by virtue of each having a W.P. Carey Adviser, may be deemed to be under common control, and thus affiliated persons of each other under section 2(a)(3)(C) of the Act. Section 17(d) and section 57(b) apply to any investment adviser to a closed-end fund or a BDC, respectively, including the sub-adviser. Thus, a Guggenheim Adviser and any Affiliated Investors that it advises could be deemed to be persons related to Regulated Entities in a manner described by sections 17(d) and 57(b) and therefore prohibited by sections 17(d) and 57(a)(4) and rule 17d–1 from participating in the Co-Investment Program. Applicants further submit that, because the Guggenheim Advisers are ''affiliated persons'' of other Guggenheim Advisers, Affiliated Investors advised by any of them could be deemed to be persons related to Regulated Entities (or a company controlled by a Regulated Entity) in a manner described by sections 17(d) and 57(b) and also prohibited from participating in the Co-Investment Program.

4. Applicants state that they expect that that co-investment in portfolio companies by a Regulated Entity, one or more other Regulated Entities and/or one or more Affiliated Investors will increase favorable investment opportunities for each Regulated Entity.

5. Applicants submit that the fact that the Required Majority will approve each Co-Investment Transaction before investment (except for certain dispositions or follow-on investments, as described in the conditions), and other protective conditions set forth in the application, will ensure that each Regulated Entity will be treated fairly. Applicants state that each Regulated Entity's participation in the Co-Investment Transactions will be consistent with the provisions, policies and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants. Applicants further state that the terms and conditions proposed herein will ensure that all such transactions are reasonable and fair to each Regulated Entity and the Affiliated Investors and do not involve overreaching by any person concerned, including W.P. Carey or Guggenheim.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time a Guggenheim Adviser considers a Potential Co-Investment Transaction for an Affiliated Investor or another Regulated Entity that falls within a Regulated Entity's then-current Objectives and Strategies, the Advisers to the Regulated Entity will make an independent determination of the appropriateness of the investment for the Regulated Entity in light of the Regulated Entity's then-current circumstances.

2. a. If the Advisers to a Regulated Entity deem participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Entity, the Advisers will then determine an appropriate level of investment for such Regulated Entity.

b. If the aggregate amount recommended by the Advisers to a Regulated Entity to be invested by the Regulated Entity in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Entities and Affiliated Investors, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount of the investment opportunity will be allocated among the Regulated Entities and such Affiliated Investors, pro rata based on each participant's Available Capital [13] for investment in the asset

[13] ''Available Capital'' means (a) for each Regulated Entity, the amount of capital available for investment determined based on the amount of cash on hand, existing commitments and reserves, if any, the targeted leverage level, targeted asset mix and other investment policies and restrictions set from time to time by the Board of the applicable Regulated Entity or imposed by applicable laws,

class being allocated, up to the amount proposed to be invested by each. The Advisers to each participating Regulated Entity will provide the Eligible Trustees of each participating Regulated Entity with information concerning each participating party's Available Capital to assist the Eligible Trustees with their review of the Regulated Entity's investments for compliance with these allocation procedures.

c. After making the determinations required in conditions 1 and 2(a) above, the Advisers to the Regulated Entity will distribute written information concerning the Potential Co-Investment Transaction, including the amount proposed to be invested by each Regulated Entity and any Affiliated Investor, to the Eligible Trustees of each participating Regulated Entity for their consideration. A Regulated Entity will co-invest with one or more other Regulated Entities and/or an Affiliated Investor only if, prior to the Regulated Entities' and the Affiliated Investors' participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Entity and its shareholders and do not involve overreaching in respect of the Regulated Entity or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(a) The interests of the Regulated Entity's shareholders; and

(b) the Regulated Entity's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Entity or an Affiliated Investor would not disadvantage the Regulated Entity, and participation by the Regulated Entity would not be on a basis different from or less advantageous than that of any other Regulated Entity or Affiliated Investor; provided, that if another Regulated Entity or Affiliated Investor, but not the Regulated Entity itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer, or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit a Required Majority from reaching the conclusions required by this condition 2(c)(iii), if:

(a) The Eligible Trustees will have the right to ratify the selection of such director or board observer, if any; and

(b) the Advisers to the Regulated Entity agree to, and do, provide periodic reports to the Regulated Entity's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(c) any fees or other compensation that any other Regulated Entity or any Affiliated Investor or any affiliated person of any other Regulated Entity or an Affiliated Investor receives in connection with the right of one or more Regulated Entities or Affiliated Investors to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Investors (who may, in turn, share their portion with their affiliated persons) and any participating Regulated Entity in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Entity will not benefit the Advisers, any other Regulated Entity or the Affiliated Investors or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted under sections 17(e) and 57(k) of the Act, as applicable, (C) in the case of fees or other compensation described in condition 2(c)(iii)(c), or (D) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction.

3. Each Regulated Entity will have the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The Advisers will present to the Board of each Regulated Entity, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Entities or any of the Affiliated Investors during the preceding quarter that fell within the Regulated Entity's then-current Objectives and Strategies that were not made available to the Regulated Entity, and an explanation of why the investment opportunities were not offered to the Regulated Entity. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Entity and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for follow-on investments made in accordance with condition 8,[14] a Regulated Entity will not invest in reliance on the Order in any issuer in which another Regulated Entity or an Affiliated Investor or any affiliated person of another Regulated Entity or an Affiliated Investor is an existing investor.

6. A Regulated Entity will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Entity and Affiliated Investor. The grant to one or more Regulated Entities or Affiliated Investors, but not the Regulated Entity itself, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(a), (b) and (c) are met.

7. a. If any Regulated Entity or Affiliated Investor elects to sell, exchange or otherwise dispose of an interest in a security that was acquired by one or more Regulated Entities and/or Affiliated Investors in a Co-Investment Transaction, the Advisers will:

(i) Notify each Regulated Entity that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Entity in the disposition.

b. Each Regulated Entity will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the Affiliated Investors and any other Regulated Entity.

c. A Regulated Entity may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and each Affiliated Investor in such disposition is proportionate to its outstanding investments in the issuer immediately

rules, regulations or interpretations and (b) for each Affiliated Investor, the amount of capital available for investment determined based on the amount of cash on hand, existing commitments and reserves, if any, the targeted leverage level, targeted asset mix and other investment policies and restrictions set by the Affiliated Investor's directors, general partners or adviser or imposed by applicable laws, rules, regulations or interpretations.

[14] This exception applies only to follow-on investments by a Regulated Entity in issuers in which that Regulated Entity already holds investments.

preceding the disposition; (ii) the Regulated Entity's Board has approved as being in the best interests of the Regulated Entity the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Regulated Entity's Board is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Advisers will provide their written recommendation as to the Regulated Entity's participation to the Eligible Trustees, and the Regulated Entity will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Entity's best interests.

d. Each Regulated Entity and each Affiliated Investor will bear its own expenses in connection with the disposition.

8. a. If any Regulated Entity or Affiliated Investor desires to make a ''follow-on investment'' (*i.e.,* an additional investment in the same entity, including through the exercise of warrants or other rights to purchase securities of the issuer) in a portfolio company whose securities were acquired by the Regulated Entity and the Affiliated Investor in a Co-Investment Transaction, the Advisers will:

(i) Notify each Regulated Entity of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed follow-on investment, by each Regulated Entity.

b. A Regulated Entity may participate in such follow-on investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and each Affiliated Investor in such investment is proportionate to its outstanding investments in the issuer immediately preceding the follow-on investment; and (ii) the Regulated Entity's Board has approved as being in the best interests of such Regulated Entity the ability to participate in follow-on investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Advisers will provide their written recommendation as to such Regulated Entity's participation to the Eligible Trustees, and the Regulated Entity will participate in such follow-on investment solely to the extent that the Required Majority determines that it is in such Regulated Entity's best interests.

c. If, with respect to any follow-on investment:

(i) The amount of a follow-on investment is not based on the Regulated Entities' and the Affiliated Investors' outstanding investments immediately preceding the follow-on investment; and

(ii) the aggregate amount recommended by the Advisers to be invested by the Regulated Entity in the follow-on investment, together with the amount proposed to be invested by the other participating Regulated Entities and the Affiliated Investors in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each participant's Available Capital for investment in the asset class being allocated, up to the amount proposed to be invested by each.

d. The acquisition of follow-on investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and be subject to the other conditions set forth in the application.

9. The Independent Trustees of each Regulated Entity will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Entities or Affiliated Investors that a Regulated Entity considered but declined to participate in, so that the Independent Trustees may determine whether all investments made during the preceding quarter, including those investments which the Regulated Entity considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Trustees will consider at least annually the continued appropriateness for such Regulated Entity of participating in new and existing Co-Investment Transactions.

10. Each Regulated Entity will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Entities were a BDC and each of the investments permitted under these conditions were approved by a Required Majority under section 57(f).

11. No Independent Trustee of a Regulated Entity will also be a trustee, director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of any Affiliated Investor.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) shall, to the extent not payable by the Advisers under their respective advisory agreements with the Regulated Entities and the Affiliated Investors, be shared by the Regulated Entities and the Affiliated Investors in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding brokers' fees contemplated by section 17(e) or 57(k) of the Act, as applicable) [15] received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Entities and Affiliated Investors on a pro rata basis based on the amount they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Entities and Affiliated Investors based on the amount they invest in the Co-Investment Transaction. None of the other Regulated Entities, Affiliated Investors, the Advisers nor any affiliated person of the Regulated Entities or the Affiliated Investors will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Entities and the Affiliated Investors, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(c) and (b) in the case of the Advisers, investment advisory fees paid in accordance with the Regulated Entities' and the Affiliated Investors' investment advisory agreements).

14. The Advisers to the Regulated Entities and Affiliated Investors will maintain written policies and procedures reasonably designed to ensure compliance with the foregoing conditions. These policies and procedures will require, among other things, that each of the Advisers to each Regulated Entity will be notified of all Potential Co-Investment Transactions that fall within a Regulated Entity's then-current Objectives and Strategies and will be given sufficient information to make its independent determination

[15] Applicants are not requesting and the Commission is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

and recommendations under conditions 1, 2(a), 7 and 8.

15. If the Holders own in the aggregate more than 25 percent of the shares of a Regulated Entity, then the Holders will vote such shares as directed by an independent third party when voting on (1) the election of directors or trustees; (2) the removal of one or more directors or trustees; or (3) any matters requiring approval by the vote of a majority of the outstanding voting securities, as defined in section 2(a)(42) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2016–13514 Filed 6–7–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77975; File No. SR–NYSE–2016–39]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Exchange's Price List To Eliminate Certain Services That Are No Longer Utilized by Users and To Remove Obsolete Text

June 2, 2016.

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 May 23, 2016, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Price List to eliminate certain services that are no longer utilized by Users and to remove obsolete text. The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change the Price List for the co-location [4] services offered by the Exchange to eliminate certain services that are no longer utilized by Users [5] and to remove obsolete text.

LCN CSP Access

The ''Liquidity Center Network'' (''LCN'') is a local area network available in the data center. A User is currently able to act as a content service provider (a ''CSP'' User) and deliver services to another User in the data center (a ''Subscribing'' User).[6] These services could include, for example, order routing/brokerage services and/or data delivery services.

Currently, the Exchange offers CSP Users specific, dedicated 10 gigabyte (''Gb'') LCN connections (''LCN CSP'') that would allow CSP Users to send data to, and communicate with, all their properly authorized Subscribing Users at once. In such a case, a Subscribing User would receive the services via its standard LCN connection and would be charged an initial and monthly fee (''CSP Subscriber fee'') reflecting the benefit of receiving services from the CSP User in this manner.[7]

However, Users no longer utilize the LCN CSP connection offering. Accordingly, the Exchange proposes to discontinue LCN CSP connections, and to remove references to LCN CSP access and CSP Subscriber fees from the Price List. A CSP User would remain able to deliver services to a Subscribing User via direct cross connect, as is currently the case and as was the case prior to the introduction of the LCN CSP connection offering.

Bundled Network Access

A User is currently able to select from two ''bundled'' connectivity options when connecting to the data center: ''Bundled Network Access Option 1'' and ''Bundled Network Access Option 2''.[8] The Exchange proposes to discontinue Bundled Network Access Option 2, as Users no longer utilize it, and to remove references to related pricing from the Price List. In addition, the Exchange proposes to rename ''Bundled Network Access Option 1'' as ''Bundled Network Access,'' as it would be the sole remaining option.

IP Network Access

The Internet protocol (''IP'') network is a local area network available in the data center.[9] IP network access is offered in 1, 10 and 40 Gb capacities. The Exchange proposes to delete a statement in the Price List that the 40 Gb circuit of the IP network is expected to be available no later than April 15, 2016,[10] as such statement is obsolete. This proposed change would have no impact on pricing.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE MKT LLC and NYSE Arca, Inc. *See* Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR–NYSE–2013–59).

[6] *See* Securities Exchange Act Release No. 67666 (August 15, 2012), 77 FR 50742 (August 22, 2012) (SR–NYSE–2012–18).

[7] *Id.* Previously, the Exchange also offered a one Gb LCN CSP connection, but it was discontinued as it was no longer utilized by Users. *See* Securities Exchange Act Release No. 72721 (July 30, 2014), 79 FR 45562 (August 5, 2014) (SR–NYSE–2014–37).

[8] Previously, the Exchange offered other ''bundled'' connectivity options, but they were discontinued as they were no longer utilized by Users. *See id.*, at 45562.

[9] *See* Securities Exchange Act Release No. 74222 (February 6, 2015), 80 FR 7888 (February 12, 2015) (SR–NYSE–2015–05) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections and fiber cross connects between a User's cabinet and a non-User's equipment).

[10] *See* Securities Exchange Act Release No. 76368 (November 5, 2015), 80 FR 70027 (November 12, 2015) (SR–NYSE–2015–54) (notice of filing and immediate effectiveness of proposed rule change to include IP 40 Gb network connections).

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.*, a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [11] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[12]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and Section 6(b)(4) of the Act,[14] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because discontinuing the LCN CSP and Bundled Network Access Option 2 in the data center would permit the Exchange to streamline the offerings available to Users in the data center by eliminating services that Users no longer utilize and, by removing references to related pricing from the Price List, make the Price List easier to read, understand and administer. The Exchange believes that, because no Users utilize such services, it would be equitable and not unfairly discriminatory to discontinue the services.

The Exchange believes that it is reasonable to discontinue the services in the data center that are no longer utilized by Users and to remove references to related pricing from the Price List because the Exchange offers the services described herein as a convenience to Users, but in doing so incurs certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and ongoing monitoring, support and maintenance of such services. Removing services that Users do not utilize from the co-location offerings would contribute to a more efficient process for managing the various services offered to Users, which would improve the utilization of the data center resources, both with respect to personnel and infrastructure, including hardware and software.

The Exchange believes that eliminating a reference in the Price List that states that the 40 Gb circuit of the IP network is expected to be available no later than April 15, 2016, is reasonable, equitable and not unfairly discriminatory because the reference is obsolete and no longer has an impact on pricing. The proposed change would result in the removal of obsolete text from the Price List and therefore add greater clarity to the Price List regarding the services offered and the applicable fees.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.*, the same products and services are available to all Users).

The Exchange believes that discontinuing the LCN CSP and Bundled Network Access Option 2 in the data center and removing references to related pricing and obsolete text from the Price List would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because no Users utilize the services proposed to be discontinued. A CSP User would remain able to deliver services to a Subscribing User via direct cross connect, as is currently the case and as was the case prior to the introduction of the LCN CSP connection offering. The proposed rule change is not intended to address competitive issues.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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.

[11] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[12] *See* SR–NYSE–2013–59, *supra* note 5, at 51766. The Exchange's affiliates have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEMKT–2016–57 and SR–NYSEArca–2016–77.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [17] of the Act and subparagraph (f)(2) of Rule 19b–4 [18] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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) [19] 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 No. SR–NYSE–2016–39 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 No. SR–NYSE–2016–39. 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 No. SR–NYSE–2016–39, and should be submitted on or before June 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13473 Filed 6–7–16; 8:45 am]

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77973; File No. SR–NYSEMKT–2016–57]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Amending the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule To Eliminate Certain Services That are No Longer Utilized by Users and To Remove Obsolete Text

June 2, 2016.

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 May 23, 2016, 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE MKT Equities Price List (''Price List'') and the NYSE Amex Options Fee Schedule (''Fee Schedule'') to eliminate certain services that are no longer utilized by Users and to remove obsolete text. The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change the Price List and Fee Schedule for the co-location [4] services offered by the Exchange to eliminate certain services that are no longer utilized by Users [5] and to remove obsolete text.

LCN CSP Access

The ''Liquidity Center Network'' (''LCN'') is a local area network available in the data center. A User is

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the Price List and Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC and NYSE Arca, Inc. *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67).

currently able to act as a content service provider (a ''CSP'' User) and deliver services to another User in the data center (a ''Subscribing'' User).[6] These services could include, for example, order routing/brokerage services and/or data delivery services.

Currently, the Exchange offers CSP Users specific, dedicated 10 gigabyte (''Gb'') LCN connections (''LCN CSP'') that would allow CSP Users to send data to, and communicate with, all their properly authorized Subscribing Users at once. In such a case, a Subscribing User would receive the services via its standard LCN connection and would be charged an initial and monthly fee (''CSP Subscriber fee'') reflecting the benefit of receiving services from the CSP User in this manner.[7]

However, Users no longer utilize the LCN CSP connection offering. Accordingly, the Exchange proposes to discontinue LCN CSP connections, and to remove references to LCN CSP access and CSP Subscriber fees from the Price List and Fee Schedule. A CSP User would remain able to deliver services to a Subscribing User via direct cross connect, as is currently the case and as was the case prior to the introduction of the LCN CSP connection offering.

Bundled Network Access

A User is currently able to select from two ''bundled'' connectivity options when connecting to the data center: ''Bundled Network Access Option 1'' and ''Bundled Network Access Option 2''.[8] The Exchange proposes to discontinue Bundled Network Access Option 2, as Users no longer utilize it, and to remove references to related pricing from the Price List and Fee Schedule. In addition, the Exchange proposes to rename ''Bundled Network Access Option 1'' as ''Bundled Network Access,'' as it would be the sole remaining option.

IP Network Access

The Internet Protocol (''IP'') network is a local area network available in the data center.[9] IP network access is offered in 1, 10 and 40 Gb capacities. The Exchange proposes to delete statements in the Price List and Fee Schedule that the 40 Gb circuit of the IP network is expected to be available no later than April 15, 2016,[10] as such statements are obsolete. This proposed change would have no impact on pricing.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [11] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[12]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and Section 6(b)(4) of the Act,[14] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange also believes that the proposed rule change furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because discontinuing the LCN CSP and Bundled Network Access Option 2 in the data center would permit the Exchange to streamline the offerings available to Users in the data center by eliminating services that Users no longer utilize and, by removing references to related pricing from the Price List and Fee Schedule, make the Price List and Fee Schedule easier to read, understand and administer. The Exchange believes that, because no Users utilize such services, it would be equitable and not unfairly discriminatory to discontinue the services.

The Exchange believes that it is reasonable to discontinue the services in the data center that are no longer utilized by Users and to remove references to related pricing from the Price List and Fee Schedule because the Exchange offers the services described herein as a convenience to Users, but in doing so incurs certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and ongoing monitoring, support and maintenance of such services. Removing services that Users do not utilize from the co-location offerings would contribute to a more efficient process for managing the various services offered to Users, which would improve the utilization of the data center resources, both with respect to personnel and infrastructure, including hardware and software.

[6] *See* Securities Exchange Act Release No. 67665 (August 15, 2012), 77 FR 50734 (August 22, 2012) (SR–NYSEMKT–2012–11).

[7] *Id.* Previously, the Exchange also offered a one Gb LCN CSP connection, but it was discontinued as it was no longer utilized by Users. *See* Securities Exchange Act Release No. 72719 (July 30, 2014), 79 FR 45502 (August 5, 2014) (SR–NYSEMKT–2014–61).

[8] Previously, the Exchange offered other ''bundled'' connectivity options, but they were discontinued as they were no longer utilized by Users. *See id.,* at 45503.

[9] *See* Securities Exchange Act Release No. 74220 (February 6, 2015), 80 FR 7894 (February 12, 2015) (SR–NYSEMKT–2015–08) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections and fiber cross connects between a User's cabinet and a non-User's equipment).

[10] *See* Securities Exchange Act Release No. 76373 (November 5, 2015), 80 FR 70024 (November 12, 2015) (SR–NYSEMKT–2015–90) (notice of filing and immediate effectiveness of proposed rule change to include IP 40 Gb network connections).

[11] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[12] *See* SR–NYSEMKT–2013–67, *supra* note 5, at 50471. The Exchange's affiliates have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2016–39 and SR–NYSEArca-2016–77.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f(b)(5).

The Exchange believes that eliminating references in the Price List and Fee Schedule that state that the 40 Gb circuit of the IP network is expected to be available no later than April 15, 2016, is reasonable, equitable and not unfairly discriminatory because these references are obsolete and no longer have an impact on pricing. The proposed change would result in the removal of obsolete text from the Price List and Fee Schedule and therefore add greater clarity to the Price List and Fee Schedule regarding the services offered and the applicable fees.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that discontinuing the LCN CSP and Bundled Network Access Option 2 in the data center and removing references to related pricing and obsolete text from the Price List and Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because no Users utilize the services proposed to be discontinued. A CSP User would remain able to deliver services to a Subscribing User via direct cross connect, as is currently the case and as was the case prior to the introduction of the LCN CSP connection offering. The proposed rule change is not intended to address competitive issues.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[17] of the Act and subparagraph (f)(2) of Rule 19b–4[18] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)[19] 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 No. SR–NYSEMKT–2016–57 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 No. SR–NYSEMKT–2016–57. 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 No. SR–NYSEMKT–2016–57, and should be submitted on or before June 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13471 Filed 6–7–16; 8:45 am]

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[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 31 and Form R31, SEC File No. 270–537, OMB Control No. 3235–0597.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995

(''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 31 (17 CFR 240.31) and Form R31 (17 CFR 249.11) under the Securities Exchange Act of 1934 (15 U.S.C. 78ee) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 31 of the Exchange Act requires the Commission to collect fees and assessments from national securities exchanges and national securities associations (collectively, ''self-regulatory organizations'' or ''SROs'') based on the volume of their securities transactions. To collect the proper amounts, the Commission adopted Rule 31 and Form R31 under the Exchange Act whereby the SROs must report to the Commission the volume of their securities transactions and the Commission, based on those data, calculates the amount of fees and assessments that the SROs owe pursuant to Section 31. Rule 31 and Form R31 require the SROs to provide this data on a monthly basis.

Currently, there are 23 respondents under Rule 31: 19 national securities exchanges, one security futures exchange, and one national securities association subject to the collection of information requirements of Rule 31; there are additionally two registered clearing agencies that are required to provide certain data in their possession needed by the SROs to complete Form R31, although these two entities are not themselves required to complete and submit Form R31. The Commission estimates that the total burden for all 23 respondents is 390 hours per year. The Commission notes that, based on previous and current experience, it estimates an additional three new national securities exchanges will become registered and subject to the reporting requirements of Rule 31 over the course of the authorization period and incur a burden of 18 hours per year. Thus, the Commission estimates the total burden for the existing and expected new respondents to be 408 hours per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: June 2, 2016.

Brent J. Fields

Secretary.

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BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form D, OMB Control No. 3235–0076, SEC File No. 270–072.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form D (17 CFR 239.500) is a notice of sales filed by issuers making an offering of securities in reliance on an exemption under Regulation D (17 CFR 230.501 *et seq.*) or Section 4(a)(5) of the Securities Act of 1933 (15 U.S.C. 77d(a)(5)). Regulation D sets forth rules governing the limited offer and sale of securities without Securities Act registration. The purpose of Form D is to collect empirical data, which provides a continuing basis for action by the Commission either in terms of amending existing rules and regulations or proposing new ones. In addition, the Form D allows the Commission to elicit information necessary in assessing the effectiveness of Regulation D (17 CFR 230.501 *et seq.*) and Section 4(6) of the Securities Act of 1933 (15 U.S.C. 77d(6)) as capital-raising devices for all businesses. Approximately 21,686 issuers file Form D and it takes approximately 4 hours per response. We estimate that 25% of 4 hours per response (1 hour per response) is prepared by the issuer for an annual reporting burden 21,686 hours (1 hour per response x 21,686 responses).

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: June 2, 2016.

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 477, OMB Control No. 3235–0550, SEC File No. 270–493.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission

plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 477 (17 CFR 230.477) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) sets forth procedures for withdrawing a registration statement, including any amendments or exhibits to the registration statement. The rule provides that if an issuer intends to rely on the safe harbor contained in Securities Act Rule 155 to conduct an unregistered private offering of securities, the issuer must affirmatively state in the withdrawal application that it plans to undertake a subsequent private offering of its securities. Without this statement, the Commission would not be able to monitor a company's reliance on, and compliance with, Securities Act Rule 155(c). We estimate that approximately 327 issuers will file Securities Act Rule 477 submissions annually at an estimated one hour per response for a total annual burden of approximately 327 hours.

Written comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: June 2, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–13466 Filed 6–7–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77982; File No. SR–ICC–2016–005]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Amendment No. 1 and Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Update and Formalize the ICC Stress Testing Framework

June 2, 2016.

I. Introduction

On March 31, 2016, ICE Clear Credit LLC (''ICC'' or ''ICE Clear Credit'') 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 update and formalize ICC's stress testing framework. On April 20, 2016 ICC filed Amendment No. 1 to the proposal.[3] The proposed rule change was published for comment in the **Federal Register** on April 21, 2016.[4] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The principal purpose of the proposed rule change is to update and formalize ICC's Stress Testing Framework, which sets forth the stress testing practices instituted by ICC. The framework, according to ICC, is designed to: Articulate the types of stress tests executed and the main purpose of each type of test; describe how stress tests are conducted; define the actual test scenarios currently executed; outline the range of remedial actions available (which, depending on the results, may include enhancements to the risk methodology or certain Clearing Participant (''CP'') specific action); and explain how stress test results are used in the governance process.

ICC states that the stress testing framework helps ICC identify potential weaknesses in the risk management methodology currently used and, as a result, allows ICC to identify potential model enhancements to the Initial Margin and Guaranty Fund models, as well as identify the need to exercise short term remedies based upon specific CP positions and risk of exposure prior to introduction of model enhancements.

ICC represents that during the execution of stress testing, the ICC Risk Department (''Risk Department'') applies the standard set of pre-defined Stress Test Scenarios against actual portfolios, sample portfolios derived from currently cleared positions, and expected future portfolios, as appropriate, to generate hypothetical profits or losses. According to ICC, the Risk Department compares the hypothetical losses to the available funds from the Initial Margin requirements and Guaranty Fund contribution related to the selected portfolios. A scenario deficiency is identified in the event that the hypothetical loss exceeds the protection provided by the available collateral assets and mutualization funds. ICC states that, depending on the plausibility of the stress scenarios and the frequency and severity of any resulting deficiencies, the Risk Department may recommend enhancements to the risk methodology.

ICC represents that it utilizes certain predefined scenarios for its stress testing, which fall into three standard categories: (i) Historically observed extreme but plausible market scenarios; (ii) historically observed and hypothetically constructed (forward looking) extreme but plausible market scenarios with a baseline credit event; and (iii) extreme model response tests (collectively, ''Stress Test Scenarios''). ICC states that discordant scenarios (*i.e.,* scenarios under which selected risk factors move in opposite directions; commonly the behavior deviates from historically observed behavior) are applied to certain instruments to account for discordant price moves.

ICC asserts that it applies the Stress Test Scenarios to a variety of portfolios. Specifically, ICC applies the Stress Test Scenarios to all currently cleared portfolios. ICC states that its Risk Department may also apply the Stress Test Scenarios to sample portfolios obtained from currently cleared portfolios and may also apply the Stress Test Scenarios to staff-constructed, expected future portfolios, as ICC's Risk

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ICE Clear Credit filed Amendment No. 1 to further revise the Stress Testing Framework to incorporate language regarding the treatment of unrated reference entities for the purposes of applying the stress scenarios. Under Amendment No. 1, ICC has clarified that unrated reference entities are treated as non-investment grade entities with respect to the application of stress scenarios. Amendment No. 1 is not subject to comment because it is a technical, clarifying amendment that does not alter the substance of the proposed rule change or raise any novel regulatory issues.

[4] Securities Exchange Act Release No. 34–77633 (April 15, 2016), 81 FR 23531 (April 21, 2016) (SR–ICC–2016–005).

Department deems appropriate, to mimic expected future portfolios upon the launch of new services. In this case, ICC states that the stress test analysis is presented to and reviewed by ICC's Risk Committee prior to the launch of the new clearing services. ICC represents that it may design specific portfolio sets to test the validity of certain model/system assumptions. According to ICC, the stress test results from such expected future portfolio executions are reviewed and analyzed internally, and may be used to support future model initiatives.

ICC states that it also designs stress test analysis directed toward the identification of wrong-way risk in cleared portfolios. For every cleared portfolio, ICC asserts that all positions in index risk factors and single name risk factors that exhibit high degree of association with the considered CP are used to create a sub-portfolio which will be subjected to additional stress test analysis. The constructed sub-portfolio is subjected to the same Stress Test Scenarios utilized by ICC.

The framework also describes ICC's reverse stress testing (Guaranty Fund Adequacy Analysis) practices. According to ICC, the purpose of the adequacy analysis is to provide estimates for the level of protection achieved by the clearinghouse via its Initial Margin and Guaranty Fund models. In performing its analysis, ICC represents that it considers a combination of adverse price realizations and idiosyncratic credit events associated with reference obligations on which the stress tested CP sold protection. ICC's Stress Testing Framework also describes the correlation sensitivity analysis performed by ICC, based on Monte Carlo simulations, as well as the additional recovery rate sensitivity analysis.

ICC's framework also details how stress testing is utilized in ICC's governance process. ICC states that it maintains a framework to ensure that ICC's Risk Committee and Board are provided with transparency into the Risk Department's stress test results and contemplated methodology changes. According to ICC, stress testing results are reviewed, at a minimum, by ICC's Risk Department weekly. Additionally, ICC states that stress testing results are provided to ICC's Risk Committee weekly and a report of such results is presented to the Risk Committee on a monthly basis. Ad hoc reviews of the stress testing results may be undertaken at the discretion of ICC's Chief Risk Officer.

In the event of any deficiencies noted upon stress testing, ICC represents that its Risk Department must report such deficiencies to ICC senior management and the Risk Committee, and either (a) provide analysis that the results do not highlight a significant weakness in the stress testing or risk methodology; or (b) recommend enhancements to the stress testing or risk methodology. ICC states that ICC senior management and the Risk Committee will review and recommend any stress testing or risk methodology enhancements to the ICC Board, which is responsible for approval. ICC states that the Risk Department may also choose to add new scenarios and portfolios in response to deficiencies noted upon stress testing; in this case, the Risk Department will discuss with the Risk Committee, which will recommend to the Board, which is responsible for approval.

ICC asserts that the Risk Department maintains a standard set of Stress Scenarios and portfolios (namely actual portfolios, sample portfolios derived from currently cleared portfolios, and expected future portfolios) that are executed on a regular basis. In the event that a scenario or portfolio in the standard set is no longer applicable, or has been superseded by new scenarios or portfolios, ICC claims that the Risk Department may wish to retire or modify the outdated scenario or portfolio, in which case, the Risk Department will, with ICC senior management: Conduct analysis to support a recommendation; discuss the analysis and obtain a recommendation from the Risk Committee; and present the final analysis to the Board for approval. ICC states that, in the interest of prudent risk management, the Risk Department may wish to add scenarios and/or portfolios to the standard set and that Risk Committee or Board approval is not required unless such scenarios and/or portfolios are added in response to stress testing deficiencies, as described above.

Previous versions of ICC's framework included the Risk Working Group in the governance structure, as ICC consulted with the Risk Working Group as it worked to develop its initial stress testing approach and appropriate scenarios. ICC states that, as it now has a fully developed approach, stress testing remains focused on data analysis and reporting results, which ICC claims are addressed at the Risk Committee and Board level. Thus, to reflect current governance practices, references to the Risk Working Group have been removed from its framework.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [5] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act [6] 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, and to the extent applicable, derivative agreements, contracts and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest. In addition, Rule 17Ad–22(b)(3),[7] requires registered clearing agencies to maintain, at a minimum, sufficient financial resources to withstand a default by the participant family to which it has the largest exposure in extreme but plausible market conditions, and for registered clearing agencies acting as a central counterparty for security-based swaps, to maintain additional financial resources sufficient to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act [8] and the rules and regulations thereunder applicable to ICC.

ICC's Stress Testing Framework establishes ICC's stress testing practices. These stress testing practices are designed, among other things, to ensure the adequacy of ICC's financial resources under applicable legal requirements, and set forth the methodology by which ICC evaluates potential portfolio profits and losses, compared to the Initial Margin and Guaranty Fund funds maintained, in order to identify any potential weakness in ICC's risk methodology. Such financial resources will facilitate ICC's continued operations in the event of a participant default. As such, the Commission believes that the proposed rule changes are designed to promote the prompt and accurate clearance and settlement of securities transactions,

[5] 15 U.S.C. 78s(b)(2)(C).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 240.17Ad–22(b)(3).

[8] 15 U.S.C. 78q–1.

derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F) [9] of the Act.

The Commission also believes that the proposed changes will satisfy the applicable requirements of Rule 17Ad–22.[10] In particular, the Stress Testing Framework contains stress testing practices designed to ensure that ICE Clear Credit maintains sufficient financial resources to withstand a default by the participant family to which it has the largest exposure in extreme but plausible market conditions, and that as a registered clearing agency acting as a central counterparty for security-based swaps, ICC maintains additional financial resources sufficient to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions, consistent with the requirements of Rule 17Ad–22(b)(3).[11]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [12] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–ICC–2016–005) as modified by Amendment No. 1, be, and hereby is, approved.[14]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13477 Filed 6–7–16; 8:45 am]

BILLING CODE 8011–01–P

[9] Id.

[10] 17 CFR 240.17Ad–22.

[11] 17 CFR 240.17Ad–22(b)(3).

[12] 15 U.S.C. 78q–1.

[13] 15 U.S.C. 78s(b)(2).

[14] 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).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77976; File No. SR–NYSE–2016–11]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, To Establish Certain End User Fees, Amend the Definition of Affiliate, and Amend the Co-Location Section of the Price List To Reflect the Changes

June 2, 2016.

On April 4, 2016, New York Stock Exchange LLC (''NYSE'' 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 to establish fees relating to certain end users, amend the definition of Affiliate, and amend the co-location section of the Price List to reflect the changes. The Commission published the proposed rule change for comment in the **Federal Register** on April 22, 2016.[3] On April 29, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received two comment letters on the proposed rule change.[5]

Section 19(b)(2) of the Act [6] provides that, within 45 days of the publication of the notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[7] designates July 21, 2016, as the date by which the Commission should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change (File No. SR–NYSE–2016–11), as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13474 Filed 6–7–16; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–77642 (April 18, 2016), 81 FR 23786 (''Notice'').

[4] Amendment No. 1 made technical changes relating to the General Notes numbering and references in the Co-location section of the Price List.

[5] *See* Letter from Michael J. Friedman, General Counsel and CCO, Trillium to Brent J. Fields, Secretary, Commission, dated May 13, 2016; *see also* Letter from Eero Pikat to the Commission, dated May 13, 2016.

[6] 15 U.S.C. 78s(b)(2).

[7] *Id.*

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77974; File No. SR–NYSEArca–2016–77]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule and the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services To Eliminate Certain Services That Are No Longer Utilized by Users and To Remove Obsolete Text

June 2, 2016.

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 May 23, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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 the Substance of the Proposed Rule Change

The Exchange proposes amend the NYSE Arca Options Fee Schedule (the ''Options Fee Schedule'') and, through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), the NYSE Arca Equities Schedule of

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Fees and Charges for Exchange Services (the ''Equities Fee Schedule'' and, together with the Options Fee Schedule, the ''Fee Schedules'') to eliminate certain services that are no longer utilized by Users and to remove obsolete text. The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change the Fee Schedules for the co-location [4] services offered by the Exchange to eliminate certain services that are no longer utilized by Users [5] and to remove obsolete text.

LCN CSP Access

The ''Liquidity Center Network'' (''LCN'') is a local area network available in the data center. A User is currently able to act as a content service provider (a ''CSP'' User) and deliver services to another User in the data center (a ''Subscribing'' User).[6] These services could include, for example, order routing/brokerage services and/or data delivery services.

Currently, the Exchange offers CSP Users specific, dedicated 10 gigabyte (''Gb'') LCN connections (''LCN CSP'') that would allow CSP Users to send data to, and communicate with, all their properly authorized Subscribing Users at once. In such a case, a Subscribing User would receive the services via its standard LCN connection and would be charged an initial and monthly fee (''CSP Subscriber fee'') reflecting the benefit of receiving services from the CSP User in this manner.[7]

However, Users no longer utilize the LCN CSP connection offering. Accordingly, the Exchange proposes to discontinue LCN CSP connections, and to remove references to LCN CSP access and CSP Subscriber fees from the Fee Schedules. A CSP User would remain able to deliver services to a Subscribing User via direct cross connect, as is currently the case and as was the case prior to the introduction of the LCN CSP connection offering.

Bundled Network Access

A User is currently able to select from two ''bundled'' connectivity options when connecting to the data center: ''Bundled Network Access Option 1'' and ''Bundled Network Access Option 2''.[8] The Exchange proposes to discontinue Bundled Network Access Option 2, as Users no longer utilize it, and to remove references to related pricing from the Fee Schedules. In addition, the Exchange proposes to rename ''Bundled Network Access Option 1'' as ''Bundled Network Access,'' as it would be the sole remaining option.

IP Network Access

The internet protocol (''IP'') network is a local area network available in the data center.[9] IP network access is offered in 1, 10 and 40 Gb capacities. The Exchange proposes to delete statements in the Fee Schedules that the 40 Gb circuit of the IP network is expected to be available no later than April 15, 2016,[10] as such statements are obsolete. This proposed change would have no impact on pricing.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.*, a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [11] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[12]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[13] in general, and section 6(b)(4) of the Act,[14] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers,

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC and NYSE MKT LLC. *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80).

[6] *See* Securities Exchange Act Release No. 67667 (August 15, 2012), 77 FR 50743 (August 22, 2012) (SR–NYSEArca–2012–63).

[7] *Id.* Previously, the Exchange also offered a one Gb LCN CSP connection, but it was discontinued as it was no longer utilized by Users. *See* Securities Exchange Act Release No. 72720 (July 30, 2014), 79 FR 45577 (August 5, 2014) (SR–NYSEArca–2014–81).

[8] Previously, the Exchange offered other ''bundled'' connectivity options, but they were discontinued as they were no longer utilized by Users. *See id.,* at 45578.

[9] *See* Securities Exchange Act Release No. 74219 (February 6, 2015), 80 FR 7899 (February 12, 2015) (SR–NYSEArca–2015–03) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections and fiber cross connects between a User's cabinet and a non-User's equipment).

[10] *See* Securities Exchange Act Release No. 76372 (November 5, 2015), 80 FR 70039 (November 12, 2015) (SR–NYSEArca–2015–105) (notice of filing and immediate effectiveness of proposed rule change to include IP 40 Gb network connections).

[11] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[12] *See* SR–NYSEArca–2013–80, *supra* note 5, at 50459. The Exchange's affiliates have also submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2016–39 and SR–NYSEMKT–2016–57.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

issuers, brokers or dealers. The Exchange also believes that the proposed rule change furthers the objectives of section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change is reasonable, equitable and not unfairly discriminatory because discontinuing the LCN CSP and Bundled Network Access Option 2 in the data center would permit the Exchange to streamline the offerings available to Users in the data center by eliminating services that Users no longer utilize and, by removing references to related pricing from the Fee Schedules, make the Fee Schedules easier to read, understand and administer. The Exchange believes that, because no Users utilize such services, it would be equitable and not unfairly discriminatory to discontinue the services.

The Exchange believes that it is reasonable to discontinue the services in the data center that are no longer utilized by Users and to remove references to related pricing from the Fee Schedules because the Exchange offers the services described herein as a convenience to Users, but in doing so incurs certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and ongoing monitoring, support and maintenance of such services. Removing services that Users do not utilize from the co-location offerings would contribute to a more efficient process for managing the various services offered to Users, which would improve the utilization of the data center resources, both with respect to personnel and infrastructure, including hardware and software.

The Exchange believes that eliminating references in the Fee Schedules that state that the 40 Gb circuit of the IP network is expected to be available no later than April 15, 2016, is reasonable, equitable and not unfairly discriminatory because these references are obsolete and no longer have an impact on pricing. The proposed change would result in the removal of obsolete text from the Fee Schedules and therefore add greater clarity to the Fee Schedules regarding the services offered and the applicable fees.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.*, the same products and services are available to all Users).

The Exchange believes that discontinuing the LCN CSP and Bundled Network Access Option 2 in the data center and removing references to related pricing and obsolete text from the Fee Schedules would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because no Users utilize the services proposed to be discontinued. A CSP User would remain able to deliver services to a Subscribing User via direct cross connect, as is currently the case and as was the case prior to the introduction of the LCN CSP connection offering. The proposed rule change is not intended to address competitive issues.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A) [17] of the Act and subparagraph (f)(2) of Rule 19b–4 [18] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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) [19] 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 No. SR–NYSEArca–2016–77 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 No. SR–NYSEArca–2016–77. This file number should be included on the

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(2).

[19] 15 U.S.C. 78s(b)(2)(B).

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 No. SR–NYSEArca–2016–77, and should be submitted on or before June 29, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2016–13472 Filed 6–7–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form N–2, OMB Control No. 3235–0026, SEC File No. 270–21.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

The title for the collection of information is ''Form N–2 (17 CFR 239.14 and 274.11a–1) under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Closed-End Management Investment Companies.'' Form N–2 is the form used by closed-end management investment companies (''closed-end funds'') to register as investment companies under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') and to register their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act''). The primary purpose of the registration process is to provide disclosure of financial and other information to current and potential investors for the purpose of evaluating an investment in a security. Form N–2 also permits closed-end funds to provide investors with a prospectus containing information required in a registration statement prior to the sale or at the time of confirmation of delivery of securities. The form also may be used by the Commission in its regulatory review, inspection, and policy-making roles.

The Commission estimates that there are 136 initial registration statements and 30 post-effective amendments to initial registration statements filed on Form N–2 annually and that the average number of portfolios referenced in each initial filing and post-effective amendment is 1. The Commission further estimates that the hour burden for preparing and filing an initial registration statement on Form N–2 is 515 hours per portfolio, and the hour burden for preparing and filing a post-effective amendment on Form N–2 is 107 hours per portfolio. The estimated annual hour burden for preparing and filing initial registration statements is 70,040 hours (136 initial registration statements × 1 portfolio × 515 hours per portfolio). The estimated annual hour burden for preparing and filing post-effective amendments is 3,210 hours (30 post-effective amendments × 1 portfolio × 107 hours per portfolio). The estimated total annual hour burden for Form N–2, therefore, is estimated to be 73,250 hours (70,040 hours + 3,210 hours).

The information collection requirements imposed by Form N–2 are mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: June 2, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–13463 Filed 6–7–16; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Release Airport Property at St. Petersburg-Clearwater International (PIE), St. Petersburg, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for public comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties of approximately 16.88 acres at St. Petersburg-Clearwater International (PIE), St. Petersburg, FL from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the Pinellas County, dated 11 March 1941. The release of property will allow Pinellas County to dispose of the property for Florida Department of Transportation roadway right of way project.

DATES: Comments are due on or before July 8, 2016.

ADDRESSES: Documents are available for review at St. Petersburg-Clearwater International Airport (PIE), and the FAA

Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Jenny Iglesias-Hamann, Community Planner, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Jenny Iglesias-Hamann, Community Planner, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

The property is located Multiple parcels along Roosevelt Road (SR 686) adjacent to airport. The parcels are currently designated Aeronautical and Non-Aeronautical. The property will be released of its federal obligations in support of the Florida Department of Transportation (FDOT) Gateway Express Project. The fair market value of thess parcels has been determined to be $12,205,865.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the St. Petersburg-Clearwater International Airport (PIE) and the FAA Airports District Office.

Bart Vernace,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2016–13554 Filed 6–7–16; 8:45 a.m.]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Automatic Dependent Surveillance—Broadcast (ADS–B) Rebate System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about its intention to request Office of Management and Budget (OMB) approval for a new information collection. The FAA is launching a rebate program to emphasize the urgent need for pilots to comply with Automatic Dependent Surveillance Broadcast (ADS–B) Out requirements ahead of the January 1, 2020, compliance deadline. This program will defray costs associated with the ADS–B equipment and installation for eligible general aviation aircraft, and help ensure that all general aviation aircraft are equipped by the compliance date.

DATES: Written comments should be submitted by August 8, 2016.

ADDRESSES: Send comments to the FAA at the following address: Ronda Thompson, Room 441, Federal Aviation Administration, ASP–110, 950 L'Enfant Plaza SW., Washington, DC 20024.

Public comments invited: Individuals are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for this program; (b) the accuracy of the estimated burden; (c) ways for the FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include public comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: Not assigned.

Title: Automatic Dependent Surveillance-Broadcast (ADS–B) Rebate System.

Form Numbers: Information is collected via a Web site specific to the ADS–B Rebate program.

Type of Review: New information collection.

Background: On May 21, 2010, the FAA issued a final rule requiring Automatic Dependence Surveillance-Broadcast (ADS–B) Out avionics on aircraft operating in Classes A, B, and C airspace, as well as certain other classes of airspace within the National Airspace System (NAS), no later than January 1, 2020 (75 FR 30160). ADS–B Out equipage is a critical step in achieving the benefits of NextGen, in that it transforms aircraft surveillance with satellite-based precision. When properly equipped with ADS–B, both pilots and controllers can, for the first time, see the same real-time displays of air traffic, and pilots will be able to receive air traffic services in places where it has not been previously available.

To meet this deadline for compliance, the FAA estimated that as many as 160,000 general aviation aircraft would need to be equipped with ADS–B by January 1, 2020. In developing the ADS–B Out final rule, the FAA assumed that these aircraft owners would begin equipping new aircraft with ADS–B equipment in 2012, and begin retrofitting the existing aircraft in 2013, to minimize costs associated with retrofitting outside of the aircraft's heavy maintenance cycle. In any given year, avionics installers are capable of completing approximately 35,000–50,000 installations. In order to guarantee that general aviation aircraft that will operate in ADS–B airspace are equipped by January 1, 2020, approximately 23,000 aircraft would have needed to equip each year beginning in early 2013. This would have ensured there would be a balance between the expected demand for avionics installations and the capacity of avionics installers. Owners of general aviation aircraft who are particularly price sensitive are postponing their installations. This trend demonstrates that there is a near-term need to accelerate equipage, to ensure that pilots, manufacturers, and retail facilities have adequate time and capacity to equip aircraft by the January 1, 2020, compliance deadline. It is necessary to take advantage of the installation capacity available now in order to avoid back-end capacity constraints that could result in some aircraft being unable to receive their upgrades ahead of the compliance deadline, which will, in turn, lead to denial of access to ADS–B airspace once the ADS–B equipage mandate is in effect. This limited-time rebate will provide an incentive for early retrofitting, but it is intended to emphasize the urgent need for pilots to comply with ADS–B Out requirements ahead of 2020.

Section 221 of the FAA Modernization and Reform Act of 2012 provided the FAA with the authority to establish an incentive program for equipping general aviation and commercial aircraft with communications, surveillance, navigation, and other avionics equipment. Thus, the FAA is establishing an initiative (the ADS–B Rebate Program) to addresses the rate of general aviation equipage by incentivizing those aircraft owners who are affected by the ADS–B Out requirements and are the most price sensitive to the cost of avionics and the associated installation. The ADS–B Rebate Program will provide a one-time

$500 rebate to an aircraft owner to defray some of the cost of an ADS–B Out system meeting the program eligibility requirements. The rebates will be available on a first come first served basis.

The FAA, with input from industry partners (Aircraft Electronics Association, Aircraft Owners and Pilots Association, and General Aircraft Manufacturers Association), designed this rebate program targeting specific eligibility requirements for avionics, aircraft types, and aircraft owners. The eligibility requirements are as follows:

Eligible Avionics—Technical Standard Order (TSO)-certified Version 2 ADS–B Out system, purchased on or after June 8, 2016. Such equipment must have a TSO marking for TSO–C154c, or TSO–C166b, or both. Eligible ADS–B Out system equipment may have an embedded position source compliant with one of the following TSOs: TSO–C–145c (or subsequent versions), TSO–C146c (or subsequent versions), or may be connected to a separate position source compliant with TSO–C–145c (or subsequent versions) or TSO–C146c (or subsequent versions). Any separate position source must comply with the guidance published in FAA Advisory Circular (AC) 20–165B. ADS–B In/Out systems compliant with TSO–C154c, TSO–C166b, or both, are also eligible.

Eligible Aircraft—Only U.S.-registered, fixed-wing single-engine piston aircraft first registered before January 1, 2016 are eligible for the program. This eligibility will be determined via the FAA Civil Aircraft Registry. Program eligibility also requires permanent installation of new avionics equipment in a single aircraft in compliance with applicable FAA regulations and guidance material.

Aircraft Owner—Program eligibility is limited to one rebate per aircraft owner. An aircraft owner means either a single individual owner or any owning entity (any legal ownership entity including but not limited to an LLC, corporation, partnership or joint venture) identified as the owner of the eligible aircraft in the FAA Civil Aviation Registry.

Exclusions—All aircraft for which FAA has already paid or previously committed to upgrade to meet the ADS–B Out mandate. Software upgrades to existing equipment are not eligible. Aircraft that already have a Version 2 ADS–B Out system prior to the launch of the data collection system are not eligible. New aircraft produced after January 1, 2016, are not eligible.

For reimbursement under this program, the FAA Civil Aircraft Registry information regarding ownership is controlling and the rebate program will be using the publically available database to determine eligibility requirements based on the aircraft information. The aircraft owner is responsible for ensuring that the FAA Civil Aircraft Registry information is accurate before a claim for the rebate is submitted; rebates will only be mailed to the registered owner and address as indicated in the Civil Aircraft Registry.

To request a rebate, the applicant must provide via the program Web site a valid email address for official correspondence and notifications and aircraft-specific information such as the aircraft registration number, TSO-certified equipment purchased, and scheduled installation date. Once the information is submitted, the FAA will validate eligibility for the program with the official records regarding aircraft ownership contained in the publically available Civil Aircraft Registry. Additionally, anyone requesting a rebate will need to accept legal notices electronically by acknowledging their agreement and acceptance and providing the name of the person submitting the information on the individual web application.

Through the ADS–B Rebate Program, aircraft owners will be permitted to reserve a rebate, validate their installation, and then claim their rebate through the ADS–B Rebate Program Web site. The program steps and timeline requirements are as follows:

[1] *Decide:* The aircraft owner arranges for purchase and schedules installation of TSO-certified avionics for an eligible aircraft.

[2] *Reserve:* Before avionics installation occurs, the aircraft owner must go to the ADS–B Rebate Program Web site to submit information for a rebate reservation. Upon successful submission, the system will generate an email with a Rebate Reservation Code. During the rebate reservation process, the eligible aircraft's information is validated against the FAA Civil Aircraft Registry, including ownership information. If there are discrepancies, the aircraft owner may continue with the reservation process; but before a valid Incentive Code can be obtained in step [5], the aircraft owner must ensure that the FAA Civil Aircraft Registry data for their eligible aircraft is corrected.

[3] *Install:* TSO-certified ADS–B avionics are installed in the eligible aircraft.

[4] *Fly & Validate:* Only after the prior steps are completed, the eligible aircraft must be flown in the airspace defined in 14 CFR 91.225 for at least 30 minutes, with at least 10 aggregate minutes of maneuvering flight, per the guidance in AC 20–165B *http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1028666,* sections 4.3.2 and 4.3.2.3–4.3.2.6 for Part 23 aircraft. After flight, the ADS–B data is used to generate a Public Compliance Report (PCR) and General Aviation Incentive Requirements Status (GAIRS) Report, which is how the performance of the eligible aircraft's ADS–B installation is validated. Note that it may be necessary to repeat this step more than once, until the GAIRS Report indicates PASS for all fields and provides an Incentive Code in the Rebate Status section. Once proper installation and operation of the ADS–B is validated the FAA will notify the applicant using the email address provided at the time of rebate request.

[5] *Claim:* Within 60 days of the scheduled installation date, the aircraft owner gathers their Rebate Reservation Code (from step [2]) and their Incentive Code (from step [4]) and submits this information as well as their name and aircraft number via the ADS–B Rebate Program Web site to complete the claim for their rebate.

The FAA is seeking comments from the public regarding the information we collect for the program and how we collect it. The information provided in this notice is solely to identify and collect information from the public on the potential burden to an individual that would result from this program.

Respondents: Approximately 20,000 rebates.

Frequency: Information is collected only during the times the user is submitting their reservation and claiming their rebate after proof of meeting the eligibility requirements.

Estimated Average Burden per Response: Approximately 6 minutes.

Estimated Total Annual Burden: Approximately 2,000 hours.

Issued in Washington, DC, on June 1, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2016–13307 Filed 6–6–16; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2016–0050]

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 April 27, 2016, the South Central Florida Express (SCFE) has petitioned the

Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 229, Railroad Locomotive Safety Standards. FRA assigned this petition Docket Number FRA–2016–0050.

In its petition, SCFE proposes to maintain the daily inspection reports required by 49 CFR 229.21, *Daily inspection,* solely in electronic format. The system that SCFE proposes consists of a USB memory drive containing locomotive identifying information permanently affixed to each locomotive, with a semi-permanently installed, hardened tablet computer in each locomotive. In lieu of paper records, this computer system would run software prompting and recording the results of daily inspections and transmitting those inspection details directly and securely back to a central database maintained by the company, where they will be retained for at least 120 days. SCFE states that this system would fully satisfy the goals of daily inspection records to be accurate, not susceptible to after-the-fact changes, and readily available to FRA inspectors at any time.

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 July 25, 2016 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*.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2016–13487 Filed 6–7–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Electronic Funds Transfer (EFT) Market Research Study

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Electronic Funds Transfer (EFT) Market Research Study.

DATES: Written comments should be received on or before August 8, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for further information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4–A, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Walt Henderson, EFT Strategy Division; 401 14th Street SW., Room 303, Washington, DC 20227, (202) 874–6624

SUPPLEMENTARY INFORMATION:

Title: Electronic Funds Transfer (EFT) Market Research Study.

OMB Number: 1530–0022.

Form Number: None.

Abstract: This is a generic clearance to conduct customer satisfaction surveys, focus groups, and interviews among recipients of federal benefit and vendor payments through EFT. The need for this market research continues to arise from a Congressional directive that accompanied legislation enacted in 1996, as part of the Debt Collection Improvement Act (Pub. L. 104–134), expanding the scope of check recipients required to use direct deposit to receive Federal benefit payments (see 31 U.S.C. 3332). Congress directed Treasury to ''study the socioeconomic and demographic characteristics of those who currently do not have Direct Deposit and determine how best to increase usage among all groups.'' 142 Cong. Rec. H4090 (daily ed. April 25, 1996).

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households, Federal Government.

Estimated Number of Respondents: 19,500.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 7,500.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Dated: June 3, 2016.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2016–13539 Filed 6–7–16; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one entity whose property and interests in property has been unblocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (SDN List) of the entity identified in this notice whose property and interests in property was blocked pursuant to the Kingpin Act, is effective on June 3, 2016.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site at (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On December 3, 1999, the Kingpin Act was signed into law by the President of the United States. The Kingpin Act provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and to the benefits of trade and transactions involving U.S. persons and entities.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President or the Secretary of the Treasury. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property or interests in property, subject to U.S. jurisdiction, of persons or entities found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; and/or (3) playing a significant role in international narcotics trafficking.

On June 3, 2016, the Associate Director of the Office of Global Targeting removed from the SDN List the entity listed below, whose property and interests in property was blocked pursuant to the Kingpin Act.

Entity

MAWA ENTERPRISES, CORP., Panama; RUC # 37255–145–266651 (Panama) [SDNTK].

Dated: June 3, 2016.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2016–13525 Filed 6–7–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13712

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of three individuals whose property and interests in property are blocked pursuant to Executive Order (E.O.) 13712, and whose names have been added to OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective June 2, 2016.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202–622–0077.

Notice of OFAC Actions

On June 2, 2016 OFAC blocked the property and interests in property of the following three individuals pursuant to E.O. 13712, ''Blocking Property of Certain Persons Contributing to the Situation in Burundi'':

1. NGENDABANKA, Marius, Kinanira IV, Kinindo, Bujumbura, Burundi; DOB 25 Aug 1974; nationality Burundi; Gender Male; Commander, First Military Region; Deputy Chief of Land Forces; Burundian National Defense Forces Deputy Commander of Operations (individual) [BURUNDI].
2. SIBOMANA, Ignace; DOB 01 Jan 1972; POB Buhina, Kanyosha, Bujumbura, Burundi; nationality Burundi; Gender Male; Burundian Army Colonel, Chief of Military Intelligence (individual) [BURUNDI].
3. NSHIMIRIMANA, Edouard; DOB 1970; POB Bugeni Vyanda, Burundi; nationality Burundi; Passport 089567 (Burundi) issued 10 Feb 2006 expires 10 Feb 2011; Former Lieutenant Colonel (individual) [BURUNDI].

Dated: June 2, 2016.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–13459 Filed 6–7–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the subcommittees of the Rehabilitation Research and Development Service Scientific Merit Review Board will meet from 8:00 a.m. to 5:00 p.m. on the dates indicated below:

Subcommittee	Date(s)	Location
Psychological Health & Social Reintegration	August 2, 2016	VHA National Conference Center.
Rehabilitation Engineering & Prosthetics/Orthotics	August 2, 2016	VHA National Conference Center.
Sensory Systems/Communication Disorders	August 2, 2016	VHA National Conference Center.
Career Development Award Program	August 2–3, 2016	VHA National Conference Center.
Regenerative Medicine	August 3, 2016	VHA National Conference Center.
Aging & Neurodegenerative Disease	August 3–4, 2016	VHA National Conference Center.
Musculoskeletal/Orthopedic	August 3–4, 2016	VHA National Conference Center.
Spinal Cord Injury	August 4, 2016	VHA National Conference Center.
VA–ORD Historically Black College and University Research Scientist Training Program.	August 4, 2016	* VA Central Office
Brain Injury: TBI & Stroke	August 4–5, 2016	VHA National Conference Center.

The addresses of the meeting sites are: (*Teleconference). VA Central Office, 1100 First Street NE., Washington, DC 20002. VHA National Conference Center, 2011 Crystal Drive, Arlington, VA 22202.

The purpose of the Board is to review rehabilitation research and development applications and advise the Director, Rehabilitation Research and Development Service, and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance, and the protection of human and animal subjects.

The subcommittee meetings will be open to the public for approximately one-half hour at the start of each meeting to cover administrative matters and to discuss the general status of the program. Members of the public who wish to attend the open portion of the teleconference sessions may dial (800) 767–1750, participant code 35847#. The remaining portion of each subcommittee meeting will be closed to the public for the discussion, examination, reference to, and oral review of the research applications and critiques. During the closed portion of each subcommittee meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

No oral or written comments will be accepted from the public for either portion of the meetings. Those who plan to attend the open portion of a subcommittee meeting should contact Tiffany Asqueri, Designated Federal Officer, Rehabilitation Research and Development Service, at Department of Veterans Affairs (10P9R), 810 Vermont Avenue NW., Washington, DC 20420, or via email at *Tiffany.Asqueri@va.gov* at least five days before the meeting. For further information, please call Mrs. Asqueri at (202) 443–5757.

Dated: June 3, 2016.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2016–13527 Filed 6–7–16; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 81 Wednesday,

No. 110 June 8, 2016

Part II

Department of Energy

10 CFR Parts 429 and 430

Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2009–BT–TP–0004]

RIN 1904–AB94

Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: On November 9, 2015, the U.S. Department of Energy (DOE) issued a supplemental notice of proposed rulemaking (SNOPR) to amend the test procedure for central air conditioners and heat pumps. That proposed rulemaking serves as the basis for the final rule. The final rule, in addition to satisfying the agency's obligation to periodically review its test procedures for covered equipment, amends specific certification, compliance, and enforcement provisions related to this product. In the final rule DOE makes the following amendments to the current test procedure: a new basic model definition as it pertains to central air conditioners and heat pumps and revised requirements for represented values; revised alternative efficiency determination methods; termination of active waivers and interim waivers; procedures to determine off mode power consumption; changes to the test procedure that would improve test repeatability and reduce test burden; and clarifications to ambiguous sections of the test procedure intended also to improve test repeatability and reproducibility Some of these amendments also include incorporation by reference of updated industry standards.

DATES: The effective date of this rule is July 8, 2016. The final rule changes will be mandatory for representations of efficiency starting December 5, 2016. The incorporation by reference of certain publications listed in this rule was approved by the Director of the Federal Register on July 8, 2016.

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/72*. This Web page will contain a link to the docket for this notice on the regulations.gov site. 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: Ashley Armstrong, 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) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov*.

Johanna Jochum, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 287–6307. Email: *Johanna.Jochum@hq.doe.gov*.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into part 430 specific sections, figures, and tables in the following industry standards:

(1) ANSI/AHRI 210/240–2008 with Addenda 1 and 2, (''AHRI 210/240–2008''): 2008 Standard for Performance Rating of Unitary Air-Conditioning & Air-Source Heat Pump Equipment, ANSI approved 27 October 2011;

(2) ANSI/AHRI 1230–2010 with Addendum 2, (''AHRI 1230–2010''): 2010 Standard for Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment, ANSI approved August 2, 2010;

Copies of AHRI 210/240–2008 and AHRI 1230–2010 can be obtained from the Air-Conditioning, Heating, and Refrigeration Institute, 2111 Wilson Boulevard, Suite 500, Arlington, VA 22201, USA, 703–524–8800, or by going to *http://www.ahrinet.org/site/686/Standards/HVACR-Industry-Standards/Search-Standards* .

(3) ANSI/ASHRAE 23.1–2010, (''ASHRAE 23.1–2010''): Methods of Testing for Rating the Performance of Positive Displacement Refrigerant Compressors and Condensing Units that Operate at Subcritical Temperatures of the Refrigerant, ANSI approved January 28, 2010;

(4) ANSI/ASHRAE Standard 37–2009, (''ANSI/ASHRAE 37–2009''), Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment, ANSI approved June 25, 2009;

(5) ANSI/ASHRAE 41.1–2013, (''ANSI/ASHRAE 41.1–2013''): Standard Method for Temperature Measurement, ANSI approved January 30, 2013;

(6) ANSI/ASHRAE 41.6–2014, (''ASHRAE 41.6–2014''): Standard Method for Humidity Measurement, ANSI approved July 3, 2014;

(7) ANSI/ASHRAE 41.9–2011, (''ASHRAE 41.9–2011''): Standard Methods for Volatile-Refrigerant Mass Flow Measurements Using Calorimeters, ANSI approved February 3, 2011

(8) ANSI/ASHRAE 116–2010, (''ASHRAE 116–2010''): Methods of Testing for Rating Seasonal Efficiency of Unitary Air Conditioners and Heat Pumps, ANSI approved February 24, 2010.

(9) ANSI/ASHRAE 41.2–1987 (Reaffirmed 1992), (''ASHRAE 41.2–1987 (RA 1992)''): ''Standard Methods for Laboratory Airflow Measurement'', ANSI approved October 1, 1987.

Copies of ASHRAE 23.1–2010, ANSI/ASHRAE 37–2009, ANSI/ASHRAE 41.1–2013, ASHRAE 41.6–2014, ASHRAE 41.9–2011, ASHRAE 116–2010, and ASHRAE 41.2–1987 (RA 1992) can be purchased from ASHRAE's Web site at *https://www.ashrae.org/resources—publications*.

(10) ANSI/AMCA 210–2007, ANSI/ASHRAE 51–2007, (''AMCA 210–2007'') Laboratory Methods of Testing Fans for Certified Aerodynamic Performance Rating, August 17, 2007;

Copies of AMCA 210–2007 can be purchased from AMCA's Web site at *http://www.amca.org/store/index.php*.

For a further discussion of these standards, see section IV.N.

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I. Authority and Background

A. Authority

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act''), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Consumer Products Other Than Automobiles.[2] These products include single-phase central air conditioners and central air conditioning heat pumps [3] with rated cooling capacities less than 65,000 British thermal units per hour (Btu/h), which are the focus of this Final Rule. (42 U.S.C. 6291(1)–(2), (21) and 6292(a)(3))

Under EPCA, DOE's energy conservation program generally consists of four parts: (1) testing; (2) labeling; (3) Federal energy conservation standards; and (4) certification and enforcement. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) certifying to DOE that their products comply with applicable energy conservation standards adopted pursuant to EPCA, and (2) making other representations about the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s)) Similarly, DOE must use these test procedures to determine whether covered products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

EPCA sets forth criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. (42 U.S.C. 6293(b)(3)) EPCA provides, in relevant part, that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure the energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and shall not be unduly burdensome to conduct. *Id.*

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the amended test procedure would alter the measured energy efficiency of any covered product as determined under the existing test procedure. (42 U.S.C. 6293(e)(1))

The Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, amended EPCA to require that, at least once every 7 years, DOE must review test procedures for all covered products and either amend the test procedures (if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of 42 U.S.C. 6293(b)(3)) or publish a notice in the **Federal Register** of any determination not to amend a test procedure. (42 U.S.C. 6293(b)(1)(A))

DOE last published a test procedure final rule for central air conditioners and heat pumps on October 22, 2007. 72 FR 59906. The existing DOE test method for central air conditioners and heat pumps adopted pursuant to that rule appears at Title 10 of the Code of Federal Regulations (CFR) Part 430, Subpart B, Appendix M (''Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners and Heat Pumps''). That

[1] For editorial reasons, Part B was codified as Part A in the U.S. Code.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (Apr. 30, 2015).

[3] Where this notice uses the term ''CAC/HP'', they are in reference specifically to central air conditioners and heat pumps as defined by EPCA.

procedure establishes the currently permitted means for determining energy efficiency and annual energy consumption of these products. The amendments in this final rule will not alter the measured efficiency of central air conditioners and heat pumps.

EISA 2007 also established that the Department's test procedures for all covered products must account for standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) For central air conditioners and heat pumps, standby mode is incorporated into the SEER metric, while off mode power consumption is separately regulated. This final rule includes modifications relevant to the determination of both SEER (including standby mode) and off mode power consumption.

10 CFR 430.27 allows manufacturers to submit an application for an interim waiver and/or a petition for a waiver granting relief from adhering to the test procedure requirements found under 10 CFR part 430, subpart B, appendix M. For those waivers that are active, however, 10 CFR 430.27(l) requires DOE to amend its regulations so as to eliminate any need for the continuation of such waivers. To this end, this final rule amends the test procedure concerning several waivers.

B. Background

This final rule addresses proposals and comments from three separate rulemakings, two guidance documents, and two working groups: (1) proposals for off mode test procedures made in earlier notices as part of this rulemaking (Docket No. EERE–2009–BT–TP–0004); (2) proposals regarding alternative efficiency determination methods (AEDMs) (Docket No. EERE–2011–BT–TP–0024); (3) the recommendations of the regional standards enforcement Working Group (Regional Standards Enforcement Working Group) (Docket No. EERE–2011–BT–CE–0077); (4) a draft guidance document related to testing and rating split systems with blower coil units (Docket No. EERE–2014–BT–GUID–0033); (5) a draft guidance document that deals with selecting units for testing, rating, and certifying split-system combinations, including discussion of basic models and of condensing units and evaporator coils sold separately for replacement installation (Docket No. EERE–2014–BT–GUID–0032); and (6) stakeholder comments from a request for information regarding energy conservation standards as well as the recommendations of the central air conditioner and heat pump energy conservation standards Working Group (CAC/HP ECS Working Group) (Docket No. EERE–2014–BT–STD–0048).

1. Proposals for Off Mode Test Procedures

DOE's initial proposals for estimating off mode power consumption in the test procedure for central air conditioners and heat pumps were shared with the public in a notice of proposed rulemaking published in the **Federal Register** on June 2, 2010 (June 2010 NOPR; 75 FR 31224) and at a public meeting at DOE headquarters in Washington, DC, on June 11, 2010 (Public Meeting Transcript, Doc. ID. EERE–2009–BT–TP–0004–0005). Subsequently, DOE published a supplemental notice of proposed rulemaking (SNOPR) on April 1, 2011, in response to comments received on the June 2010 NOPR and due to the results of additional laboratory testing conducted by DOE. (April 2011 SNOPR) 76 FR 18105, 18127. DOE received additional comments in response to the April 2011 SNOPR and proposed an amended version of the off mode procedure that addressed those comments in a second SNOPR on October 24, 2011 (October 2011 SNOPR). 76 FR 65616. DOE received additional comments during the comment period of the October 24, 2011 SNOPR and the subsequent extended comment period. 76 FR 79135.

Between the April 2011 and October 2011 SNOPRs, DOE published a direct final rule (DFR) in the **Federal Register** on June 27, 2011, that set forth amended energy conservation standards for central air conditioners and central air conditioning heat pumps, including a new standard for off mode electrical power consumption. (June 2011 DFR) 76 FR 37408. Under the June 2011 DFR, central air conditioning and heat pump units manufactured on or after January 1, 2015, would be subject to the published standard for off mode electrical power consumption. 10 CFR 430.32(c)(6). However, DOE has issued an enforcement policy statement regarding off mode standards for central air conditioners and central air conditioning heat pumps [4] (July 2014 Enforcement Policy Statement) specifying that DOE will not assert civil penalty authority for violation of the off mode standard until 180 days following publication of a final rule establishing a test method for measuring off mode electrical power consumption.

[4] Available at: *http://energy.gov/sites/prod/files/2014/07/f17/Enforcement%20Policy%20Statement%20-%20cac%20off%20mode.pdf* (Last accessed March 30, 2015.)

2. Proposals for AEDMs

DOE also pursued, in a request for information (RFI) published on April 18, 2011, (AEDM RFI) (76 FR 21673) and a NOPR published on May 31, 2012, (AEDM NOPR) (77 FR 32038) revisions to its existing alternative efficiency determination methods (AEDM) and alternative rating methods (ARM) requirements to improve the approach by which manufacturers may use modeling techniques as the basis to certify consumer products and commercial and industrial equipment covered under EPCA. DOE also published a final rule regarding AEDM requirements for commercial and industrial equipment only (Commercial Equipment AEDM FR). 78 FR 79579 (Dec. 31, 2013).

3. Regional Enforcement Standards Working Group and Guidance Documents

On June 13, 2014, DOE published a notice of intent to form a working group to negotiate enforcement of regional standards for central air conditioners and requested nominations from parties interested in serving as members of the Regional Standards Enforcement Working Group. 79 FR 33870. On July 16, 2014, the Department published a notice of membership announcing the eighteen nominees that were selected to serve as members of the Regional Standards Enforcement Working Group, in addition to two members from Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC), and one DOE representative. 79 FR 41456. The Regional Standards Enforcement Working Group identified a number of issues related to testing and certification that are being addressed in this rule. In addition, all nongovernmental participants of the Regional Standards Enforcement Working Group approved the final report contingent on upon the issuance of the final guidance on Docket No. EERE–2014–BT–GUID–0032 0032 and Docket No. EERE–2014–BT–GUID–0033 consistent with the understanding of the Regional Standards Enforcement Working Group as set forth in its recommendations. (Docket No. EERE–2011–BT–CE–0077–0070, Attachment) The amendments in this final rule supplant the August 19 and 20, 2014 draft guidance documents; DOE will not finalize the draft guidance documents and instead has provided any necessary clarity through this final rule. DOE believes the amendments are consistent with the intent of the Regional Standards Enforcement Working Group.

4. Energy Conservation Standards and Working Group

On November 5, 2014, DOE published a request for information for energy conservation standards (ECS) for central air conditioners and heat pumps (November 2014 ECS RFI). 79 FR 65603. In response, several stakeholders provided comments suggesting that DOE amend the current test procedure.

On July 14, 2015, DOE published a notice of intent to establish the central air conditioners and heat pumps working group (CAC/HP ECS Working Group) to negotiate a notice of proposed rulemaking (NOPR) for energy conservation standards. 80 FR 40938. This working group was established under ASRAC. Ultimately, the CAC/HP ECS Working Group consisted of 15 members, including one member from ASRAC and one DOE representative. On January 19, 2016, the CAC/HP ECS Working Group successfully reached consensus on amended energy conservation standards and the associated compliance date for certain product classes of central air conditioners and central air conditioning heat pumps, on limited aspects of the proposed, amended test procedure appendix M1, and also on a handful of other miscellaneous issues related to the standards rulemaking as well as to this test procedure final rule. (ASRAC Working Group Term Sheet, Docket No. EERE–2014–BT–STD–0048, No. 0076)

5. Current Rulemaking

Prior to the conclusion of the CAC/HP ECS Working Group, on November 9, 2015, DOE published a third supplemental notice of proposed rulemaking (November 2015 SNOPR) for the test procedure of central air conditioners and heat pumps. 80 FR 69278. The SNOPR responded to relevant comments from the guidance documents and rulemaking dockets discussed in this section.

This final rule addresses certain comments received in response to the November 2015 SNOPR. Some of the provisions of the SNOPR, particularly related to changes proposed for appendix M1, will be addressed in a separate notice. This final rule, along with the separate final rule addressing Appendix M1, will fulfill DOE's obligation to periodically review its test procedures under 42 U.S.C. 6293(b)(1)(A).

II. Summary of the Final Rule

This final rule clarifies aspects of DOE's test procedure for central air conditioners and heat pumps to improve the consistency and accuracy of the results generated when using that procedure. The rule primarily clarifies how to test for compliance with the current energy conservation standards. The rule also amends certain certification, compliance, and enforcement provisions. While the changes adopted in this rulemaking may impact test burden in certain cases, as discussed in section III.H.3, DOE has determined that this final rule will not change the measured energy efficiency of central air conditioners and heat pumps when compared to the current test procedure. Any proposed amendments that would change the measured energy efficiency will be addressed as part of the new appendix M1, in a separate notice, which will be used in conjunction with amended standards.

DOE revises the basic model definition, adds additional definitions for clarity, makes certain revisions to the testing requirements for determination of represented values, adds certain certification reporting requirements, revises requirements for determination of represented values, and adds product-specific enforcement provisions.

DOE updates requirements for Alternative Rating Methods (ARMs) used to determine performance metrics for central air conditioners and heat pumps based on the regulations for Alternative Efficiency Determination Methods (AEDMs) that are used to estimate performance for commercial HVAC equipment. Specifically, for central air conditioners and heat pumps, DOE makes the following amendments: (1) Revising the nomenclature regarding ARMs; (2) rescinding DOE's pre-approval of an ARM prior to use; (3) creating AEDM validation requirements; (4) revising the AEDM verification testing process; (5) specifying actions a manufacturer could take following a verification test failure; and (6) clarifying consequences to manufacturers for invalid represented values.

DOE revises the test procedure such that tests of multi-circuit products, triple-capacity northern heat pump products, and multi-blower products can be performed without the need of an interim waiver or a waiver. Existing interim waivers and waivers for these products, as applicable, regarding these products will terminate 180 days after publication of this final rule.

DOE also terminates the existing waivers for air-to-water heat pump products integrated with domestic water heating because, as discussed in section III.C.1, DOE has determined that these waivers are not valid because they do not provide a method for measurement of the efficiency metrics used to determine compliance with applicable standards.

DOE adopts test methods and calculations for off mode power that do not impact the measured energy with respect to the current energy conservation standard. Specifically, the adopted test procedure includes the following:

(1) Provision of an option to conduct the off mode tests in a temperature-controlled room rather than a psychrometric room;

(2) Elimination of ambient condition requirements for units whose off mode power consumption can be measured without control of ambient temperature;

(3) Alteration of the off mode multiplier for modulated compressors;

(4) Addition of requirements on the heating season off mode power measurement for units having a crankcase heater whose controls cycle or vary crankcase heater power over time;

(5) Clarification of test sample set-up and power measurement testing methodology and components;

(6) Addition of requirement to eliminate the time delay effect on the off mode power measurement; and

(7) Elimination of the condition where P2 is equal to zero in the off mode power consumption calculation.

In this final rule DOE also improves the repeatability/reproducibility and reduces the test burden of the test procedure. Specifically, DOE amends the following:

(1) Clarification of fan speed settings;

(2) Clarification of insulation requirements for refrigerant lines and addition of a requirement for insulating mass flow meters;

(3) Addition of a requirement to demonstrate inlet air temperature uniformity for the outdoor unit using thermocouples;

(4) Addition of a requirement that outdoor air conditions be measured using sensors measuring the air captured by the air sampling device(s) rather than the temperature sensors located in the air stream approaching the inlets;

(5) Addition of a requirement that the air sampling device and the tubing that transfers the collected air to the dry bulb temperature sensor be at least two inches from the test chamber floor, and a requirement that humidity measurements be based on dry bulb temperature measurements made at the same location as the corresponding wet bulb temperature measurements used to determine humidity;

(6) Clarification of maximum speed for variable-speed compressors;

(7) Addition of requirements that improve consistency of refrigerant charging procedures;

(8) Allowance of an alternative arrangement for cyclic tests to replace the currently-required damper in the inlet portion of the indoor air ductwork for single-package ducted units;

(9) Clarification of the proper supply voltage for testing;

(10) Revision of the determination of the coefficient of cyclic degradation (C_D);

(11) Option for a break-in period of up to 20 hours;

(12) Update of references to industry standards where appropriate;

(13) Inclusion of information from the draft AHRI 210/240;

(14) Addition of provisions regarding damping of pressure transducer signals to avoid exceeding test operating tolerances due to high frequency fluctuations;

(15) Clarification of inputs for the demand defrost credit equation; and

(16) Improvement of test consistency associated with indoor unit air inlet geometry.

DOE also provides additional detail and specificity with respect to several provisions. Specifically, DOE adds reference to an industry standard for testing variable refrigerant flow multi-split systems; replaces the informative guidance table for using the test procedure; clarifies the definition of multi-split systems; clarifies the definition of mini-split systems, which DOE now calls multi-head mini-split systems; and clarifies the housing for uncased coils.

Lastly, DOE addresses comments received from stakeholders in response to the November 2015 SNOPR that were unrelated to any of DOE's proposals. Specifically, this includes the following:

(1) Water condensation metric;

(2) Barometric pressure correction ; and

(3) Inlet screen.

Given the difficulty of writing amendatory instructions to implement the many small changes throughout appendix M, DOE has provided a full re-print of appendix M in the regulatory text of this final rule.

DOE revises the test procedure in this final rule as reflected in the revised Appendix M to Subpart B of 10 CFR part 430 effective on July 8, 2016. The amended test procedure is mandatory for representations of efficiency as of December 5, 2016.

III. Discussion

This final rule amends the test procedure for central air conditioners and heat pumps in appendix M to subpart B of Part 430 and adds new product-specific certification and enforcement provisions in 10 CFR 429.12, 429.16, 429.70, and 429.134. The rule also amends certain definitions found in 10 CFR 430.2 and updates certain materials incorporated by reference in 10 CFR 430.3.

In response to the November 2015 SNOPR, the following 25 interested parties submitted written comments: Advanced Distributor Products LLC; Air-Conditioning, Heating, and Refrigeration Institute (AHRI); American Council for an Energy Efficient Economy (ACEEE); Appliance Standards Awareness Project (ASAP); First Co.; Goodman Global, Inc.; Heating, Air Conditioning & Refrigeration Distributors International (HARDI); Ingersoll Rand; Johnson Controls Inc. (JCI); Lennox International Inc; LG Electronics U.S.A., Inc; Mitsubishi Electric Cooling & Heating; Natural Resources Defense Council (NRDC); Nortek Global HVAC; Northwest Energy Efficiency Alliance (NEEA); Northwest Power and Conservation Council (NPCC); Pacific Gas and Electric Company (PG&E); Rheem Manufacturing Company (Rheem); San Diego Gas and Electric Company (SDG&E); Southern California Edison (SCE); Southern California Gas Company (SCG); Unico, Inc.; United Refrigeration, Inc. (URI); United Technologies Climate, Controls & Security (UTC), also known as Carrier Corporation. NEEA and NPCC submitted a joint comment. PG&E, SDG&E, SCG, and SCE, hereafter referred to as the California Investor-Owned Utilities (California IOUs), also submitted a joint comment. ACEEE, ASAP, and NRDC, hereafter referred to as the Efficiency Advocates, also submitted a joint comment.

Interested parties provided comments on a range of issues, including those DOE identified in the November 2015 SNOPR, as well as several other pertinent issues related to DOE's proposal. Commenters also offered thoughts on further opportunities to improve the clarity of the test procedure. These issues, as well as DOE's responses to them and the resulting changes to DOE's proposal, are discussed in the subsequent sections. A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[5]

A. Definitions, Testing, Represented Values, and Compliance of Basic Models of Central Air Conditioners and Heat Pumps

On August 19 and 20, 2014, DOE issued two draft guidance documents regarding the test procedure for central air conditioners and heat pumps. One guidance document dealt with testing and rating split systems with blower coil indoor units (Docket No. EERE–2014–BT–GUID–0033); and the other dealt more generally with selecting units for testing, rating, and certifying split-system combinations, including discussion of basic models and of condensing units and evaporator coils sold separately for replacement installation (Docket No. EERE–2014–BT–GUID–0032). The comments in response to these draft guidance documents were discussed in the November 2015 SNOPR. DOE proposed changes to the substance of the draft guidance that reflects the comments received as well as the recommendations of the Regional Standards Enforcement Working Group (Docket No. EERE–2011–BT–CE–0077–0070, Attachment). DOE makes additional modifications in this final rule in response to comment on the November 2015 SNOPR as well as the recommendations of the CAC/HP ECS Working Group (Docket No. Docket No. EERE–2014–BT–STD–0048, No. 76). The adopted changes supplant the two draft guidance documents; DOE will not finalize the draft guidance documents and has instead provided any necessary clarity through this final rule.

1. Basic Model Definition

In the November 2015 SNOPR, DOE proposed modifying its basic model definition for central air conditioners and heat pumps. 80 FR at 69282–4 (Nov. 9, 2015). Under DOE's proposal, manufacturers could consider each individual model/combination its own basic model, or manufacturers could assign all individual models of the same single-package system or all individual combinations using the same model of outdoor unit (for outdoor unit manufacturers (OUM)) or model of indoor unit (for independent coil manufacturers (ICM)) to the same basic model. DOE proposed to further define (for both single-package units and split systems) the physical characteristics necessary to assign individual models or

[5] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to amend the test procedures for central air conditioners and heat pumps. (Docket No. EERE–2009–BT–TP–0004, which is maintained at *http://www.regulations.gov/#!docketDetail;D=EERE-2009-BT-TP-0004*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

combinations to the same basic model. 80 FR 69278, 69282–83 (Nov. 9, 2015).

DOE proposed that, if a manufacturer chooses to assign each individual model or combination to its own basic model, the manufacturer must test each individual model/combination—and that an AEDM could not be applied. 80 FR 69278, 69283 (Nov. 9, 2015). If manufacturers assign all individual combinations of a model of outdoor unit (for OUMs) or model of indoor unit (for ICMs) to a single basic model, DOE further proposed that each individual combination within a basic model must be certified with a rating determined for that individual combination. However, only one individual combination in each basic model would have to be tested (see section III.A.3.a), while the others may be rated using an AEDM. This option reduces testing burden but increases risk. Specifically, if any one of the combinations within a basic model fails to meet the applicable standard, then all of the combinations within the basic model fail, and the entire basic model must be taken off the market. 80 FR 69278 at 69283 (Nov. 9, 2015).

Comments on these proposals are discussed in the following sections.

a. Basic Model Framework

The Joint Advocates of ACEEE, NRDC and ASAP (''Joint Advocates'') supported the proposed changes to the definition of a basic model and related testing and certification requirements. The Joint Advocates stated that they believe that the clarified testing requirements would reduce testing burden on manufacturers. (ACEEE, NRDC and ASAP, No. 72 at p. 1) Nortek supported DOE's proposal that manufacturers would have a choice in how to assign individual models or combinations to basic models. (Nortek, No. 58 at p. 3) ADP and Lennox supported the use of the basic model as the basis for any enforcement action as discussed in Section III.A.8 (80 FR 69278, 69297 (Nov. 9, 2015)) and the proposed 10 CFR 429. (ADP, No. 59 at p. 7; Lennox, No. 61 at p. 14)

NEEA and NPCC commented that DOE's proposed approach that all combinations within the basic model are deemed noncompliant if only one of the combinations within a basic model fails does not align with the other aspects of DOE's current proposal, in which each and every combination has its own certified rating. (NEEA and NPCC, No. 64 at p. 2–3)

Carrier/UTC expressed the concern that if one combination amongst potentially hundreds of combinations rated with a given outdoor unit fails then the entire basic model will be removed from the market and claimed that it is excessively punitive. Further, Carrier/UTC recommended a provision for saving the remaining indoor combinations of the basic model such as testing the tested combination and one (or more) other random indoor combinations. Carrier/UTC stated that the de-listing of the product should be limited to the combination that failed, not the entire basic model. (Carrier/UTC, No. 62 at pp. 5–6)

NEEA and NPCC further commented that they presume that DOE's ratings guidance of August 19 and 20, 2014, would also be impacted by a requirement to rate all outdoor and indoor unit combinations and the proposal with regard to testing-derived versus AEDM-derived ratings. They asserted that the proposal would seem to require the rating of both coil-only and blower coil combinations, with the choice of either using the highest sales volume combination being tested (and all other combinations rated using an AEDM), or testing each combination as its own basic model. (NEEA and NPCC, No. 64 at p. 2–3)

In response to NEEA and NPCC, DOE disagrees that DOE cannot make a determination of compliance on a basic model basis simply because DOE permits the manufacturer to make different representations for combinations within a basic model. In response to NEAA, NPCC, and UTC/Carrier, DOE notes that it developed the proposal for the basic model framework in an effort to balance manufacturer test burden and risk. The determination of compliance with the standard is made at the basic model level, and the manufacturer may choose how to group models into basic models and whether or not to make use of an AEDM for represented values of combinations. DOE expects that the individual combinations grouped into a single basic model would have similarities that would make validation of one of the individual model/combination's represented values a strong indication of the accuracy of the represented values of the other models/combinations—if the represented values are indeed different. DOE also notes that when manufacturers use an AEDM and DOE finds an invalid rating, manufacturers can conduct re-testing to re-certify the individual model/combination, as described in section 429.70.

DOE also notes that, as stated in the November 2015 SNOPR, this final rule will supplant DOE's draft ratings guidance documents, which will not be finalized. Finally, DOE notes in response to NEEA and NPCC that the basic model framework itself does not determine whether both coil-only and blower coil combinations must be rated; this is further discussed in section III.A.3.a. Given the support for the basic model framework voiced by many of the commenters, DOE adopts the framework as proposed in the SNOPR.

b. General Definition Comments

AHRI and several manufacturers including UTC/Carrier, ADP, Lennox, Nortek, and Unico agreed generally with DOE's proposal to modify its basic model definition. (AHRI, No. 70 at p. 3; UTC/Carrier, No. 62 at p. 5–6; ADP, No. 59 at p. 7; Lennox, No. 61 at p. 14; Nortek, No. 58 at p. 3; Unico, No. 63 at p. 4) Rheem recommended that DOE adopt the industry standard definition for basic model, as defined by AHRI. (Rheem, No. 69 at p. 4) As described below, several commenters requested additional modifications to DOE's proposed definitions; these comments are discussed below, along with revisions to the proposed definitions.

c. Split Systems Manufactured by OUMs and Single-Package Systems

For split systems manufactured by OUMs and single-package systems, AHRI, Lennox, Ingersoll Rand, Rheem, and Nortek recommended the removal of ''the auxiliary refrigeration system components if present (*e.g.,* expansion valve) and controls'' from the proposed basic model definition. Lennox and Nortek commented that adding these components to the definition can greatly expand the number of basic models. (AHRI, No. 70 at p. 3; Lennox, No. 61 at p. 4; Ingersoll Rand, No. 65 at p. 11; Rheem, No. 69 at p. 4; Nortek, No. 58 at p. 3) Additionally, Lennox and Nortek suggested that there would not be a benefit to expanding the definition of basic model beyond the currently accepted industry practice as outlined in AHRI's certification program. (Lennox, No. 61 at p. 4; Nortek, No. 58 at p. 3) DOE understands Lennox and Nortek are referring to the concept of a ''basic model group'' as the term is described in the AHRI Operations Manual for Unitary Small Air-Conditioners and Air-Source Heat Pumps, in section 1.5, ''Basic Model Groups (BMGs).''

After reviewing the comments, DOE acknowledges that while use of different auxiliary refrigeration system components may impact measured performance, it may not do so significantly—for example, measurements made using two different thermostatic expansion valves that both maintain the same superheat should not be different. In an effort to balance manufacturer test burden with the

regulatory needs of the program to establish an appropriate basic model definition, DOE has not included the phrase ''auxiliary refrigeration system components if present (*e.g.,* suction accumulator, reversing valve, expansion valve) and controls'' in the ''basic model'' definition for split systems manufactured by OUMs or for single-package systems. DOE notes, however, that each manufacturer is responsible for minor variations in efficiency differences resulting from such changes in design.

For the definition of a basic model for OUMs, Goodman agreed with DOE's overall direction. However, Goodman commented that DOE's proposed definition was too rigid and would not provide enough design flexibility to manufacturers. Specifically, Goodman cited the importance of the ability for a manufacturer to vary many aspects of its outdoor coils (*e.g.,* style and fin depth) and to source components, such as compressors, from multiple component manufacturers. Goodman asserted that this flexibility in design would allow manufacturers to provide combinations that optimize their product offering to consumers, while still yielding similar performance and therefore meriting classification under a single basic model. Goodman suggested revised basic model definitions for split systems manufactured by OUMs and single-package systems in which the list of parameters affecting performance (*e.g.,* compressor and outdoor coil properties) that had been proposed to define a distinct model be instead provided as guidance for the OUM to consider when deciding whether two variations of a design should have the same model number. (Goodman, No. 73 at pp. 2–3)

In response to Goodman, DOE recognizes the importance of allowing manufacturers flexibility in design. DOE agrees with Goodman that, for instance, using compressors from different compressor manufacturers in two different models should not require the manufacturer to classify these models as two separate basic models, if the models can still reasonably be described as having ''essentially identical characteristics.'' However, DOE believes that Goodman's suggested revised definitions, by providing guidance but no requirements, would allow widely varying characteristics under the same model of outdoor unit or single-package unit. Rather than moving to definitions that provide flexibility limited only by guidance, DOE has instead modified the definitions to allow some design flexibility, while assuring that a large departure from a given design would require that the OUM establish a new basic model. In the definitions established in this final rule for basic model for split systems manufactured by OUMs and single-package systems, DOE has removed certain requirements proposed in the November 2015 SNOPR, and added tolerances for the remaining requirements. Specifically, these modifications from the proposal include: (1) Establishing a five percent tolerance for compressor displacement, capacity, and power input; (2) removing requirements for several outdoor coil parameters; (3) adding a five percent tolerance to the face area and total fin surface area of the outdoor coil; (4) adding a ten percent tolerance on outdoor airflow, and (5) for single-package systems, allowing a ten percent tolerance on indoor airflow and a twenty percent tolerance on power input to the indoor fan motor.

In the basic model definition proposed in the November 2015 SNOPR for split systems manufactured by OUMs and single-package systems, DOE specified that all individual models or combinations in a basic model must have the same or comparably performing compressor(s) with the ''same displacement rate (volume per time) and same capacity and power input when tested under the same operating conditions.'' 80 FR 69278, 69341 (Nov. 9, 2015). In order to promote design flexibility, DOE is adopting less stringent requirements in the basic model definition amended in this final rule by adding a five percent tolerance to the displacement rate and capacity and power input. DOE's research suggests that comparable compressors made by different manufacturers vary by less than two percent in displacement rate and capacity and power input when tested under the same conditions. Therefore, DOE believes that a five percent tolerance allows manufacturers the option to use comparably performing compressors from different manufacturers in models without having to classify the models as separate basic models. Additionally, in the definition established in this final rule, DOE explains that the tolerances on compressor parameters refer to the values rated by the compressor manufacturer, not the performance of individual compressors.

In this final rule, DOE is adopting less stringent requirements for classifying as comparably performing outdoor coil(s) in the basic model definition for split systems manufactured by OUMs and single-package systems. To provide more flexibility to manufacturers, DOE is not adopting specifications in the basic model definitions for: Coil depth, fin style (*e.g.,* wavy, louvered), fin density (fins per inch), tube pattern, tube diameter, tube wall thickness, and tube internal enhancement. However, DOE has added a five percent tolerance to the face area and total fin surface area for outdoor coils. This tolerance on the outdoor coil areas will allow manufacturers to vary their designs while achieving similar performance, such as adding another row perpendicular to the airflow direction to the outdoor coil to compensate for using a more energy-consuming compressor.

Additionally, DOE is adding tolerances to the requirements for classifying as comparably performing outdoor fan(s) in the basic model definition for split systems manufactured by OUMs and single-package systems. DOE is adding a ten percent tolerance on outdoor fan airflow. DOE believes that this tolerance will allow manufacturers to make adjustments to the fans, such as increasing the number, diameter, or design of fan blades, without classifying comparably performing models as separate basic models.

UTC/Carrier agreed with DOE's proposal to align the basic model definition with that used by AHRI; however, they asserted that the list of additional reporting requirements is excessive and burdensome. Specifically, UTC/Carrier stated that some of these components do not affect the performance of the system, are considered proprietary, and need not be reported. Additionally, they stated that some of these minor components may change due to sourcing availability. UTC/Carrier recommended that DOE align the basic model exactly with AHRI's basic model group definition: Compressor model, outdoor coil face area, and outdoor airflow, and not require any additional data to be reported. (UTC/Carrier, No. 62 at p. 2)

For split systems manufactured by OUMs, Lennox recommended that the proposed OUM basic model definition be revised to more closely align with industry practices and recommended that the definition of outdoor coil be revised to protect business sensitive information. (Lennox, No. 61 at p. 4) Specifically, Lennox requested that the definition of outdoor coil-only include the words ''same face area and depth, style.'' Lennox suggested that DOE remove the remaining specification requirements for outdoor coils so that this sensitive business information could not be made available to the public and industry competitors through a FOIA request. (Lennox, No. 61 at pp. 3–4)

DOE acknowledges the importance of avoiding disclosure of proprietary or sensitive business information; however, in the November 2015 SNOPR DOE did not propose any additional certification requirements or supplemental test instruction reporting that would require disclosure of these parameters about which UTC/Carrier and Lennox cited concern. 80 FR 69278, 69338–39 (Nov. 9, 2015). Requirements for reporting are limited to those items listed in section 429.16(e), and mention of a parameter as the basis for distinguishing a model does not by itself imply that the value of that parameter must be reported in certification reports. DOE notes that it is not requiring that manufacturers report the sensitive information such as surface area or coil depth for which their basic model determinations are made.

In response to UTC/Carrier, DOE recognizes that minor components may vary in manufacturer designs based on availability from component manufacturers. However, DOE believes that the tolerances established in this final rule (as previously discussed) around most of the requirements in DOE's definition of basic model allow for variation in component models and manufacturers. DOE also believes that the requirements included in DOE's definition of basic model are necessary to ensure units are similar enough to be classified as the same basic model. DOE also notes that the definition established in this final rule includes tolerances on the compressor model ratings, outdoor coil face area, and outdoor airflow; therefore DOE's definition allows more flexibility for outdoor coil face area and outdoor airflow than does the definition of a split-system model group in the AHRI Operations Manual.[6]

In response to Lennox, as previously discussed, DOE has removed references to fin material, style, or density or tube thickness in the basic model definition established in this final rule, which will provide manufacturers with more flexibility in offering a varied product offering to consumers while limiting the testing burden.

d. Requirements for Independent Coil Manufacturers

Several commenters expressed concern about the impact of the proposed definition of basic model on ICM test burden. Therefore comments regarding the ICM basic model definition are addressed in the context of testing required to determine represented values in section III.A.3.d.

e. Off-Mode

Revisions to the test procedure as stated in section III.D of this final rule enable the determination of off mode power consumption, which reflects the operation of the contributing components: crankcase heater and low-voltage controls. In the November 2015 SNOPR, DOE proposed that if individual combinations that are otherwise identical are offered with multiple options for off mode related components, manufacturers at a minimum must rate the individual combination with the crankcase heater and controls which are the most consumptive. Under this proposal, if a manufacturer wished to also make representations for less consumptive off mode options for the same individual combination, the manufacturer could provide separate ratings as long as the manufacturer differentiated the individual model numbers for these ratings. These individual combinations would be within the same basic model. 80 FR 69278, 69284 (Nov. 9, 2015).

In their comments, NEEA and NPCC strongly supported DOE's proposal to require manufacturers to either rate and certify all combinations using the most consumptive off-mode power controls and systems, or to differentiate models they wish to certify with different off-mode power controls and/or systems with different model numbers, each with its own certified rating. (NEEA and NPCC, No. 64 at p. 4)

DOE received no other comments on this proposal and adopts it in this final rule.

f. Central Air Conditioner Definition

In the November 2015 SNOPR, DOE proposed to clarify that a central air conditioner or central air conditioning heat pump may consist of: A single-package unit; an outdoor unit and one or more indoor units (*e.g.,* a single-split or multi-split system); an indoor unit only (rated as a combination by an ICM with an OUM's outdoor unit); or an outdoor unit only (with no match, rated by an OUM with the coil specified in this test procedure). DOE proposed adding these specifications to the definition of central air conditioner or central air conditioning heat pump in 10 CFR 430.2. In the certification reports submitted by OUMs for split systems, DOE proposed that manufacturers must report the basic model number as well as the individual model numbers of the indoor unit(s) and the air mover where applicable. 80 FR 69278, 69284 (Nov. 9, 2015).

Lennox and ADP expressed concern that modifying the CAC/HP definition to include ''an indoor unit'' only may have significant unintended consequences with additional regulation now applying to indoor units. They stated that the indoor unit has no heating or cooling capability without being installed as a part of the system, that by itself, it is a component, and that the proposed definition is factually incorrect and contradicts the DOE's previous position that they do not have authority to regulate components of air conditioners. Lennox recommended DOE keep the existing definition. (Lennox, No. 61 at p. 10; ADP, No. 59 at p. 4)

DOE notes that the modification of the CAC/HP definition does not change the scope of DOE's product coverage and is in line with the current certification requirements for CAC/HP. Specifically, ICMs are currently responsible for testing and certifying models of indoor units they manufacture as part of a split-system combination. DOE received no other comment on this topic. For these reasons, DOE is adopting the CAC/HP definition as proposed.

2. Additional Definitions

In the November 2015 SNOPR, in order to specify differences in the proposed basic model definition for ICMs and OUMs, DOE proposed definitions for an ICM and an OUM. With respect to any given basic model, a manufacturer could be an ICM or an OUM. 80 FR 69278, 69284 (Nov. 9, 2015).

DOE also proposed to define variable refrigerant flow (VRF) systems that are single-phase and less than 65,000 Btu/h as a kind of multi-split central air conditioner and central air conditioning heat pump system. Id.

Additionally, DOE proposed to clarify several other definitions currently in 10 CFR 430.2 with minor wording changes and move them to 10 CFR 430, Subpart B, Appendix M. DOE also proposed to remove entirely the definitions for ''condenser-evaporator coil combination'' and ''coil family,'' as those terms no longer appear in the proposed regulations. Id.

DOE did not receive any comments on these definitions and related changes and adopts the proposals in this final rule.

a. Indoor Unit

In the November 2015 SNOPR, DOE proposed modifying the definition of indoor unit to read as follows: ''indoor unit transfers heat between the refrigerant and the indoor air, and

[6] AHRI's Operations Manual for Unitary Small Air-Conditioners and Air-Source Heat Pumps (Includes Mixed-Match Coils) (Rated Below 65,000 Btu/h) Certification Program (AHRI OM 210/240—March 2015). Available at *www.ahrinet.org/App_Content/ahri/files/Certification/OM%20pdfs/USE_OM.pdf* (Last accessed March 31, 2016.)

consists of an indoor coil and casing and may include a cooling mode expansion device and/or an air moving device.'' 80 FR 69278, 69284 (Nov. 9, 2015).

Goodman commented that the definition for indoor unit does not fully account for the range of indoor units sold in the market. Specifically, Goodman stated that including the casing in the proposed indoor unit definition is inconsistent with many industry offerings. Goodman also suggested a new definition for indoor unit. (Goodman, No. 73 at p. 3–5)

AHRI and Nortek proposed a definition for indoor units that does not include casing and/or an expansion device. AHRI and Nortek expressed concern that the uncased coil would no longer be within the scope of regulation, which could open the doors for a loophole in the regulation, or that manufacturers would not be able to list an uncased coil with an outdoor unit, resulting in an illegal installation. AHRI and Nortek proposed definitions for uncased coil, cased coil, and service coil. (AHRI, No. 70 at p. 8; Nortek, No. 58 at p. 3–4). Further, AHRI stated that DOE should make clear that service coils will not be rated in the future. (AHRI, No. 70 at p. 8)

UTC/Carrier commented that the exclusion of uncased coils from DOE certification represents a significant loophole as uncased coils are often installed in various new construction scenarios and should be certified. According to UTC/Carrier, DOE should further define the replacement component service coils that are used only when the current coils fail and are considered service parts and, thus, should not be certified to DOE; the treatment of uncased coils in commerce by manufacturers as service-only is problematic. (UTC/Carrier, No. 62 at p. 3)

JCI commented that, while some manufacturers use uncased service coils, others supply service coils with casings on them. In addition, JCI commented that not all uncased coils are service coils. According to JCI, there are product families of uncased coils very often sold for new construction installations, or installation of new A/C systems in the northern parts of the United States. For example, JCI noted that often in the northern United States, a new home may be constructed with only a furnace for heating and no cooling, and that cooling may be added later by installing an uncased coil into the ductwork itself. JCI commented that the uncased coil market is a vital part of the northern U.S. market, and uncased coils need to be allowed to be rated as valid matches with a basic outdoor model. (JCI, No. 66 at p. 12–13). JCI also suggested definitions for uncased coil, cased coil, service coil, and indoor unit. (JCI, No. 66 at p. 13)

The California IOUs requested that DOE allow manufacturers to rate uncased coils with outdoor condensing units. They reported that California Building Energy Efficiency Standards (Title 24) define the replacement of any component containing refrigerant to be a system alteration requiring verification of refrigerant charge and airflow through the coil. (see California Code of Regulations, Title 24, Part 1, Article 1, Section 150.2(b)(1)F) The California IOUs stated that the replacement of an indoor coil is an alteration whether the coil is cased or uncased. DOE asserted that DOE's proposal to define uncased coils as repair parts and to not require them to be part of a rated model would create a compliance problem for contractors in California because without ratings, the energy efficiency of the system with an uncased coil is not known. The California IOUs stated that in applications where the existing coil is removed from the existing case and replaced with a new coil, which is then connected to a new outdoor unit, the efficiency rating is required to meet Title 24. Therefore, the California IOUs requested that DOE allow ratings of combinations having uncased indoor coils so that compliance with Title 24 can be verified. (California IOUs, No. 67 at p. 2)

ADP and Lennox commented that they understand the intent of excluding uncased coils is to differentiate between indoor units used for legacy replacements and new installations, but believe that DOE's proposal would create a significant loophole. ADP and Lennox commented that uncased coils are used for new installations in a significant number of markets in the upper Midwest of the United States where a long tradition of skilled sheet metal workers exists. Additionally, they asserted that Canada is a predominately uncased coil market and relies on manufacturer ratings that have been certified with DOE and AHRI. Instead, ADP suggests that DOE require replacement coils not subject to certification to carry a different model number than those sold for installation as a part of new, certified systems. (ADP, No. 59 at p. 4–5; Lennox, No. 61 at p. 10)

After consideration of the comments that uncased coils may be used for new installations and that the exclusion of uncased coils from the indoor unit definition could result in a significant loophole, DOE is adopting a revised definition for an indoor unit such that it ''may or may not include . . . (e) external cabinetry''. To distinguish newly installed cased and uncased coils from replacement cased and uncased coils, DOE has added a definition for service coils and explicitly excluded them in the indoor unit definition.

Indoor unit means part of a split-system air conditioner or heat pump that includes (a) an arrangement of refrigerant-to-air heat transfer coil(s) for transfer of heat between the refrigerant and the indoor air and (b) a condensate drain pan, and may or may not include (c) sheet metal or plastic parts not part of external cabinetry to direct/route airflow over the coil(s), (d) a cooling mode expansion device, (e) external cabinetry, and (f) an integrated indoor blower (*i.e.* a device to move air including its associated motor). A separate designated air mover that may be a furnace or a modular blower (as defined in Appendix AA to the subpart) may be considered to be part of the indoor unit. A service coil is not an indoor unit.

Service coil means an arrangement of refrigerant-to-air heat transfer coil(s) and condensate drain pan that may or may not include sheet metal or plastic parts to direct/route airflow over the coil(s), external cabinetry, and/or a cooling mode expansion device, and is sold exclusively to replace an uncased coil or cased coil that has already been placed into service and is labeled accordingly.

DOE also acknowledges the benefit of including definitions for both cased and uncased coils, and adopts the following definitions:

Cased coil means a coil-only indoor unit with external cabinetry.

Uncased coil means a coil-only indoor unit without external cabinetry.

In the November 2015 SNOPR, DOE proposed to specify that if the indoor unit does not ship with a cooling mode expansion device, the system should be tested using the device as specified in the installation instructions provided with the indoor unit, or if no device is specified, using a thermostatic expansion valve (TXV). 80 FR 69278, 69284 (Nov. 9, 2015).

Goodman commented that DOE should not assume the use of TXV if a metering (expansion) device is not specified by the manufacturer. Goodman commented that the majority of systems installed today use fixed orifice rather than TXV expansion devices. (Goodman, No. 73 at p. 3–5)

DOE agrees that many product offerings use fixed orifice or piston expansion devices as standard equipment and that it may be more suitable to use a fixed orifice or piston

device if there are no detailed instructions provided in installation instructions regarding selection of an expansion device. This is because a system installed in the field without such instructions may very well perform poorly if an optimized device is not selected. Because a TXV generally is likely to provide better performance over a range of operating conditions, DOE believes the use of a fixed orifice is more consistent with this potential for poor field performance. Therefore, DOE is modifying its proposal and requiring instead that a fixed orifice or piston expansion device be used if the installation instructions do not specify a metering (expansion) device.

b. Blower Coil and Coil-Only Indoor Units

In the November 2015 SNOPR, DOE proposed definitions for blower coil indoor unit and coil-only indoor unit. The motivation was to simplify the description of the test requirements by referring to blower coil units instead of units ''with an indoor fan installed'' and to coil-only units instead of units ''without an indoor fan installed''.

Blower coil indoor unit means the indoor unit of a split-system central air conditioner or heat pump that includes a refrigerant-to-air heat exchanger coil, may include a cooling-mode expansion device, and includes either an indoor blower housed with the coil or a separate designated air mover such as a furnace or a modular blower (as defined in Appendix AA).

Blower coil system refers to a split system that includes one or more blower coil indoor units.

Coil-only indoor unit means the indoor unit of a split-system central air conditioner or heat pump that includes a refrigerant-to-air heat exchanger coil and may include a cooling-mode expansion device, but does not include an indoor blower housed with the coil, and does not include a separate designated air mover such as a furnace or a modular blower (as defined in Appendix AA). A coil-only indoor unit is designed to use a separately-installed furnace or a modular blower for indoor air movement.

Coil-only system refers to a system that includes one or more coil-only indoor units. 80 FR 69278, 69286 (Nov. 9, 2015).

ADP and UTC/Carrier agreed with the proposed definitions for blower coil and coil-only indoor units. (ADP, No. 59 at p. 6; UTC/Carrier, No. 62 at p. 3) Lennox agreed with the proposed definitions with the exceptions noted in other sections. (Lennox, No. 61 at p. 13) Unico agreed with the coil-only indoor definition, except recommended removing the word ''modular'' as there is no definition. Unico commented that the blower can be anywhere in the system. (Unico, No. 63 at p. 2) JCI suggested definitions for air handler, blower coil, and coil-only. (JCI, No. 66 at p. 13)

Rheem commented that the proposed definitions for blower coil and coil-only indoor units exclude the customary practice in the Northwest United States where an uncased coil is installed in a plenum for space-constrained installations. Rheem stated that under DOE's proposal, a certified rating for this system configuration would no longer be available to consumers. Rheem noted that there are building inspectors who require an AHRI or DOE certified combination including the evaporator coil for replacements. (Rheem, No. 69 at p. 5)

DOE acknowledges that by excluding indoor units without a casing, the customary practice identified by Rheem would not be included. As noted in the previous section, DOE has addressed this by expanding the indoor unit definition to include units which may or may not have external cabinetry. The blower coil and coil-only indoor unit definitions then build on this updated indoor unit definition. Further, DOE has removed, from both the blower coil and coil-only indoor unit definitions, language redundant with the indoor unit definition and is adopting amended definitions:

In response to Unico's comment regarding ''modular'', the definition explicitly refers to the definition of ''modular blower'' in appendix AA. In response to JCI's comment requesting a definition for ''air handler'', DOE feels that this is not necessary because there are few distinctions in the test procedure between test requirements for blower coil indoor units that are air handlers (as defined by JCI) and blower coil indoor units that are not. In cases where a distinction is needed, the regulatory language adequately provides the distinction, for example in section 3.13.1.d, ''blower coil split systems for which a furnace or a modular blower is the dedicated air mover . . .'', which refers to blower coil split systems whose indoor units are not ''air handlers''.

3. Determination of Represented Values

In the November 2015 SNOPR, DOE proposed several regulatory changes regarding the relationship between represented values and an effective enforcement plan. The changes are described in the following sections.

a. Single-Split-System Air Conditioners Rated by OUMs

DOE proposed to make changes to 10 CFR 429.16 to revise the testing and rating requirements for single-split system air conditioners. These changes were proposed to occur in two phases. In the first phase, prior to the compliance date of any amended energy conservation standards, DOE proposed only a slight change to the current requirements. Specifically, DOE proposed that for single-split system air conditioners with single speed condensing units, each model of outdoor unit must be tested with the model of coil-only indoor unit that is likely to have the largest volume of retail sales with the particular model of outdoor unit. For split-system air conditioners with other than single speed condensing units, each model of outdoor unit must also be tested with the model of coil-only indoor unit likely to have the largest sales volume unless the model of outdoor unit is sold only with model(s) of blower coil indoor units, in which case it must be tested and rated with the model of blower coil indoor unit likely to have the highest sales volume. However, any other combination may be rated through testing or use of an AEDM. Therefore, both single speed and other than single speed systems may be rated with models of both coil-only or blower coil indoor units, but if the system is sold with a model of coil-only indoor unit, it must, at a minimum, be tested in that combination. 80 FR 69278, 69285–86 (Nov. 9, 2015).

In the second phase, DOE anticipated that any amended energy conservation standards would be based on blower coil ratings. Therefore, DOE proposed that all single-split-system air conditioner basic models be tested and rated with the model of blower coil indoor unit likely to have the largest volume of retail sales with that model of outdoor unit. Manufacturers would be required to also rate all other blower coil and coil-only combinations within the basic model but would be permitted do so through testing or an AEDM. This proposed change would also be accounted for in the parallel energy conservation standards rulemaking, and would be contingent upon any proposed amended standards being based on blower coil ratings. Id.

DOE noted that these proposed testing requirements, when combined with the proposed definition for basic model, require that each basic model have at least one rating determined through testing; no basic model can be rated solely using an AEDM. Id.

DOE also proposed that in the certification report, manufacturers state whether each rating is for a coil-only or blower coil combination. 80 FR 69278, 69286 (Nov. 9, 2015).

Following publication of the November 2015 SNOPR, DOE held meetings of the CAC/HP ECS Working Group. The CAC/HP ECS Working Group recommended consensus energy conservation standards based on coil-only ratings rather than blower coil ratings, making the second phase of DOE's proposal no longer applicable. Many of the stakeholders who submitted comments on DOE's proposal were also members of the CAC/HP ECS Working Group, and as a result, their positions may have changed over the course of the negotiations. For these reasons, DOE has included the consensus recommendations of the CAC/HP ECS Working Group that pertain to DOE's proposal but has not included the comments of members of the CAC/HP ECS Working Group on the November 2015 SNOPR where the scope of the Working Group recommendation encompassed the scope of the comment.

With respect to the coil-only and blower coil requirements, ADP agreed with the proposed requirements of the first phase approach. (ADP, No. 59 at p. 5–6;)

JCI agreed with the single speed requirements in Appendix M but did not agree with DOE's proposed requirement for two-stage units or multi-stage units to be tested with a coil-only indoor unit, if any coil-only indoor units are listed with that outdoor unit. JCI recommended that there should be no change in the current regulatory text for two-stage or modulating equipment, and asserted that the spirit of the current regulation is met with blower coils remaining as the highest sales volume tested combination, even if there are limited loose coil or coil-only ratings available. (JCI, No. 66 at p. 5)

ADP had concerns that testing the highest sales volume combination (HSVC) with a blower coil in the second phase (in appendix M1) would make it more difficult for ICMs to accurately rate their products because of the added uncertainty of the indoor blower watts and airflow performance. Under the proposed second phase, with a blower coil indoor unit as HSVC, the indoor blower watt value is unknown by the ICM, forcing the ICM to estimate the watts, which introduces additional uncertainty to ICM ratings. Although ADP and Lennox recognized that ICMs could test the HSVC blower coil, they considered this to be an unreasonable testing burden on ICMs. (ADP, No. 59 at p. 5–6) ADP proposed that DOE require the reporting of indoor watt data, indoor air volume rates, and indoor air mover settings and require that they be made publicly available. (ADP, No. 59 at p. 5–6) Unico stated that it preferred that the HSVC be a coil-only indoor unit so that they would be able to properly account for the fan power when rating their products. (Unico, No. 63 at p. 2)

Lennox; the Joint Advocates of ACEEE, NRDC, and ASAP; UTC/Carrier; Goodman; and Rheem had submitted comments in regard to the two-phase proposal related to coil-only and blower coil requirements. As noted previously, these stakeholders were members of the CAC/HP ECS Working Group, and as such the comments are not included here.

JCI commented that the current language used in Appendix M denoting the HSVC match cannot be determined with exact statistics and that it actually inhibits the adoption of new and promising advancements in product design. (JCI, No. 66 at p. 4) In contrast, Unico commented that, as an indoor coil manufacturer, it believes it to be important that the outdoor unit manufacturer continue to test and rate the HSVC, as this is an integral requirement for their AEDM to maintain accuracy. (Unico, No. 63 at p. 2)

UTC/Carrier also submitted a comment related to removal of the HSVC requirement. As noted previously, UTC/Carrier was a member of the CAC/HP ECS Working Group, and as such the comment is not included here.

In the term sheet, the CAC/HP ECS Working Group recommended that DOE implement the following requirements for single-split system air conditioners and suggested some implementing regulatory text:

- Every combination distributed in commerce must be rated.
  - Every single-stage and two-stage condensing unit distributed in commerce (other than a condensing unit for a 1-to-1 mini split) must have at least 1 coil-only rating that is representative of the least efficient coil distributed in commerce with a particular condensing unit.
- Every condensing unit distributed in commerce must have at least 1 tested combination.
  - For single-stage and two-stage condensing units (other than condensing units for a 1-to-1 mini split), this must be a coil-only combination.
- All other combinations distributed in commerce for a given condensing unit may be rated based on the application of an AEDM or testing in accordance with the applicable sampling plan.

(Docket No. EERE–2014–BT–STD–0048, No. 76, Recommendation #7)

DOE notes that this recommendation is similar to DOE's Phase 1 proposal, as it is based primarily on coil-only values. In particular, single-stage and two-stage condensing units may not ever have only a blower coil represented value. The Working Group recommendation is consistent with ADP and Unico's comments requesting that the tested combination be a coil-only unit but inconsistent with JCI's request that two-stage units be tested with a blower coil. Given the preponderance of stakeholders supporting the recommendation, and the fact that multi-stage units may be tested and rated with a blower coil, DOE believes that adopting the Working Group recommendation best addresses the majority of stakeholder concerns. For these reasons, and given that there is no longer a need for a second-phase, DOE is adopting the recommendation in the term sheet, which will become effective 180 days after publication of this final rule. DOE notes that while 1-to-1 mini-splits are not expected to have a coil-only represented value, this exception does not appear explicitly in the regulatory text. DOE clarifies that since ductless mini-splits are never distributed in commerce as coil-only units, there is no coil-only value that would be representative. Therefore these units only require blower coil represented values. DOE also notes that the Working Group recommendation that every condensing unit distributed in commerce have at least one tested combination was based on the premise that manufacturers would group multiple individual combinations with a single model of outdoor unit into a basic model, as allowed in the adopted basic model definition. If manufacturers instead choose to make every individual combination (using the same model of outdoor unit) a separate basic model, each individual combination would be required to be tested. This aligns with the basic model framework discussed in section III.A.1.a.

DOE also adopts these recommendations for space-constrained split-system air conditioners given that they are subject to the same test procedure provisions and sampling plans as non-space-constrained single-split-system air conditioners.

DOE notes that both the current test procedure and the test procedure proposed in the November 2015 SNOPR requires that the test conditions used for testing coil-only units be the same as

those used for units with single-speed compressors. For example, section 3.2.1 of the current Appendix M indicates that these tests, listed in Table 4 of Appendix M as proposed, are, ''. . . for a unit . . . with no indoor blower installed.'' Because the regulatory approach finalized in this notice requires that two-stage condensing units have a coil-only test, DOE has removed ''coil-only units'' from the description of the units that must be tested using the Table 4 tests.

DOE notes that the CAC/HP ECS Working Group recommendation also removes the requirement that the tested combination be the HSVC. DOE believes the Working Group recommendation adequately addresses JCI's concern about using the highest sales volume as a tested combination, but is inconsistent with Unico's request that OUMs test and rate the HSVC. DOE will address this aspect of the recommendation in the separate notice and has not adopted it in this final rule.

Goodman commented that DOE has not adequately accounted for the inherent variability and uncertainty existing in the psychrometric test procedures in determining that the proposed change requiring two-stage units to be tested as coil-only would not affect the certified values. Goodman commented that the test methods specified by DOE, AHRI and ASHRAE have an uncertainty for steady state testing of approximately 6–8%. Goodman also noted that ISO 16491:2012 Annex B lists several factors associated with the indoor air enthalpy method that contribute to uncertainty. Moreover, Table A.3 of ISO 16491:2012 indicates that for typical cooling capacity methods, relative expanded uncertainty might be 6.8%. Goodman commented that even at 0.05 SEER or 0.05 EER below the regional requirements, new test data would therefore either require the OUM to test additional samples or would cause a once-compliant unit to be marked as non-compliant for the regional standards. (Goodman, No. 73 at p. 17)

In response to Goodman's concern about this change impacting measured energy use, DOE notes that current regulations require testing with the evaporator coil that has the largest volume of retail sales with the particular model of condensing unit. DOE understands that, for two-stage units, this is typically a coil-only combination since many homeowners do not replace the furnace at the same time when they replace their split-system air conditioning system and therefore that manufacturers should represent two-stage units as coil-only combinations. At the manufacturer's discretion, the two-stage units could also be represented as blower-coil combinations. Therefore, DOE does not believe the adopted requirements for two-stage units will change the impacted energy use,

b. Split-System Heat Pumps and Space-Constrained Split-System Heat Pumps

The current requirements for split-system heat pumps in 10 CFR 429.16 require testing a condenser-evaporator coil combination with the evaporator coil likely to have the largest volume of retail sales with the particular model of condensing unit.

In the November 2015 SNOPR, DOE proposed to slightly modify the wording explaining the testing requirement for split-system heat pumps to refer to the ''evaporator coil'' and condensing unit'' as the ''indoor unit'' and ''outdoor unit'', as the word ''outdoor unit'' is more appropriate for heat pumps than ''condensing unit''. DOE also proposed to apply this same test requirement to space-constrained split-system heat pumps. 80 FR 69278, 69286–87 (Nov. 9, 2015).

DOE received no comment on this proposal, and in this final rule, DOE adopts the wording modifications. However, in the separate notice regarding Appendix M1, DOE will consider additional modifications based on the recommendations of the CAC/HP ECS Working Group with regard to split-system air conditioners.

c. Multi-Split, Multi-Circuit, and Multi-Head Mini-Split Systems

The current requirements in 10 CFR 429.16(a)(2)(ii) specify that multi-split systems and mini-split systems designed for installation with more than one indoor unit be tested using a ''tested combination'' as defined in 10 CFR 430.2.

In the November 2015 SNOPR, DOE proposed a slight modification to the testing requirements for single-zone-multiple-coil[7] and multi-split systems and proposed to add similar requirements for testing multi-circuit systems (see section III.C.2 for more information about these systems). DOE also explained that these requirements apply to VRF systems that are single-phase and less than 65,000 Btu/h. For all multi-split, multi-circuit, and single-zone-multiple-coil split systems, DOE proposed that, at a minimum, each model of outdoor unit must be tested as part of a tested combination (as defined in the CFR) composed entirely of non-ducted indoor units. For any models of outdoor units also sold with short-ducted indoor units, DOE proposed a second ''tested combination'' composed entirely of short-ducted indoor units would be required to be tested. DOE also proposed that a manufacturer may rate a mixed non-ducted/short-ducted combination as the mean of the represented values for the tested non-ducted and short-ducted combinations. 80 FR 69278, 69287 (Nov. 9, 2015).

Under the November 2015 SNOPR proposed definition of basic model, these three combinations (non-ducted, short-ducted, and mixed) would represent a single basic model. When certifying the basic model, manufacturers should report something like ''* * *'' for the indoor unit model number and report the test sample size as the total of all the units tested for the basic model, not just the units tested for each combination. For example, if the manufacturer tests 2 units of a non-ducted combination and two units of a short-ducted combination, and also rates a mixed combination, the manufacturer should specify ''4'' as the test sample size for the basic model, while providing the rating for each combination. DOE also proposed that manufacturers be allowed to test and rate specific individual combinations as separate basic models, even if they share the same model of outdoor unit. In this case, the manufacturer would provide the individual model numbers for the indoor units rather than stating a generic model, such as ''* * *''.

DOE also proposed adding a requirement that, for any models of outdoor units also sold with models of small-duct, high velocity (SDHV) indoor units, a ''tested combination'' composed entirely of SDHV indoor units must be used for testing and rating. However, such a system would be certified as a different basic model. 80 FR 69278, 69287 (Nov. 9, 2015).

In the November 2015 SNOPR, DOE noted that multi-split systems consisting of a model of outdoor unit paired with models of non-ducted or short-ducted units should meet the energy conservation standards for split-system air conditioners or heat pumps, while systems consisting of a model of outdoor unit paired with models of SDHV indoor units should meet SDHV standards. DOE also proposed requirements for models of outdoor units that were rated and distributed in combinations that span multiple product classes to be tested and certified

[7] The November 2015 SNOPR defined a single-zone-multiple-coil split system as representing a split system that has one outdoor unit and that has two or more coil-only or blower coil indoor units connected with a single refrigeration circuit, where the indoor units operate in unison in response to a single indoor thermostat. In this final rule, DOE has adopted the term multi-head mini-split system instead.

as compliant with the applicable standard for each product class. Even if a manufacturer would sell a combination including models of both SDHV and other non-ducted or short-ducted indoor units, DOE proposed that the manufacturer should not provide a mixed rating for such combinations. 80 FR 69278, 69287–88 (Nov. 9, 2015).

Use of Term ''Short-Ducted''

DOE received several comments regarding its use of short-ducted systems as well as requests for low-static and mid-static terminology and comments regarding conventional ducted systems. Many of these systems and ESP requirements were recommended as part of the CAC/HP ECS Working Group term sheet and will be discussed in a separate notice.

In this final rule, DOE has not adopted use of the term short-duct and instead refers only to ducted units.

Mixed Represented Values for SDHV and Other Indoor Units

Several stakeholders commented on whether they supported represented values for mixed multi-split systems including models of both SDHV and non-ducted or ducted indoor units, and if so, how they should be rated and whether the SDHV or split-system standard would be most appropriate.

Nortek commented that some manufacturers publish ratings in the AHRI Directory for SDHV and non-ducted as an average value and that it is appropriate to maintain this practice for this product as it is for the mixed (ducted and non-ducted) indoor multi-split ratings. (Nortek, No. 58 at p. 13)

Unico commented that they publish multi-split ratings for SDHV indoor units, non-ducted indoor units and a mixture of SDHV and non-ducted indoor units. The mixed rating is calculated as an average of the other two, which are based on tests. This is the same procedure used for ducted (''short-ducted'') and non-ducted indoor units. Unico requested the same consideration as all other manufacturers that have mixed (ducted and non-ducted) indoor multi-split ratings. (Unico, No. 63 at p. 3)

UTC/Carrier questioned whether there is any data available on the frequency of application of mixed SDHV and non-ducted, ducted or short duct unit systems to determine the need for a separate system rating. Lacking this data, UTC/Carrier recommended not supporting mixed multi-split system ratings for these systems. (UTC/Carrier, No. 62 at p. 4)

Goodman agreed that SDHV should not be intermixed with non-ducted or other ducted indoor units, and that SDHV ICMs should be required to rate and certify such systems based upon the external static pressure associated with the SDHV indoor units. (Goodman, No. 73 at p. 13–14)

Unico agreed with DOE that the SDHV test standard is appropriate for testing the multi-split SDHV indoor units. However, Unico asserted that, in doing this, it is not necessary to apply a standard for the mixed indoor combinations since the ratings are based on other ratings that already meet their appropriate standard. (Unico, No. 63 at p. 3)

NEEA and NPCC supported the rating and certification of systems that are distributed in combinations that span more than one product class (such as multi-split and SDHV) and stated that these systems must be tested and rated so as to meet the standards for all product classes represented by the various available combinations. NEEA and NPCC suggested that each class rating be listed separately, in accordance with the testing and rating requirements for that class, and be so identified in the ratings documentation. (NEEA and NPCC, No. 64 at p. 4)

After reviewing the comments, DOE has determined that given that current industry practice includes mixed represented values for SDHV and other non-ducted or ducted indoor units, DOE will explicitly allow these mixed represented values based on an average of the represented values for each of the homogenous indoor systems. DOE has clarified this in 429.16. As noted in the November 2015 SNOPR, SDHV represented values must be a separate basic model. Any represented values for a mixed system including SDHV and another style of unit (non-ducted or ducted) must be in the same basic model as the SDHV model.

Ability To Test Mixed Systems

Several stakeholders commented on whether they supported having the ability to test mixed systems (*i.e.,* systems including both non-ducted and ducted indoor units) using the test procedure rather than using an average of the other tested systems.

UTC/Carrier did not support mixed system ratings nor test averaging due to consumer confusion, proliferation of ratings, and too many permutations. (UTC/Carrier, No. 62 at p. 4) The California IOUs commented that for all types of split systems, it is important to not have averaged ratings and cited as an example that, for the California Building Energy Efficiency Code (Title 24), the rating of the system being installed is needed to demonstrate compliance. For incentive programs managed by Energy Efficiency Program Administrators such as the California IOUs, calculation and tracking of energy savings require that the installed system be known and its rating is available. (California IOUs, No. 67 at p. 3)

AHRI and Nortek commented that averaging of ducted and non-ducted ratings has been a long-standing industry practice. According to AHRI and Nortek, the kind of indoor ducted unit should be identified as part of the rating so that the mixed ratings could then be based on ratings for the specific kinds of indoor units. (AHRI, No. 70 at p. 16; Nortek, No. 58 at p. 13)

In response to UTC/Carrier, DOE notes that given the test requirements to make representations for individual combinations other than the ''tested combination''(as discussed later in this section), and the limited amount of permutations currently listed in the AHRI directory, proliferation of represented values is not expected. In response to the California IOUs, DOE notes that the averaged represented values are based on represented values for kinds of individual systems (*i.e.,* ducted or non-ducted). As a result, an additional averaged represented value does not take away the availability of non-averaged represented values.

AHRI and Nortek also commented that, in industry practice, multi-split ratings with mixed indoor unit types are the numerical average of the ratings for each of the homogeneous indoor systems. They stated that the most common mixture is ducted and non-ducted indoor units. They asserted that there is no test procedure that could adequately test these combinations. (AHRI, No. 70 at p. 16; Nortek, No. 58 at p. 13)

Unico did not support testing mixed multi-split systems and commented that there is no adequate test procedure. Unico commented that using a numerical average of the individual (all ducted or all non-ducted) ratings is the best method to develop a rating for a mixed multi-split system. (Unico, No. 63 at p. 3)

Rheem commented that manufacturers should be permitted to test mixed systems instead of using an average to capture the interaction of the compressor with the multiple styles of indoor units. (Rheem, No. 69 at p. 5)

NEEA and NPCC commented that, given that the rating method for mixed multi-split systems will almost invariably produce a rating that is unrelated to how they actually operate in the field, they see no value in additional testing. However, NEEA and NPCC have no objection to

manufacturers testing such systems if the manufacturers believe the ratings would be better or more reliable with additional testing. (NEEA and NPCC, No. 64 at p. 4)

DOE acknowledges that testing mixed systems could capture interactions not captured in an average; however Rheem did not provide suggestions for how to develop such a test procedure. Given that several other stakeholders believe there is not currently an adequate test procedure to do so, DOE declines to add one at this time.

Options for Averaging

Several stakeholders commented on whether they support determining represented values for mixed systems using other than a straight mean, such as a weighting by the number of non-ducted or short-ducted units.

Unico did not support weighting mixed multi-split systems. Unico commented that indoor units are made in various sizes so the number of indoor units is not indicative of the load split. In addition, Unico stated that indoor units are designed to provide a range of capacities so the load split is dependent mostly on the application rather than the indoor unit size. (Unico, No. 63 at p. 3)

NEAA and NPCC expressed ambivalence regarding the use of weighting by the number of ducted and non-ducted units in the system. They asserted that any alignment of the actual performance of such multi-zone variable capacity systems in the field and their weighted ratings would be purely accidental. (NEEA and NPCC, No. 64 at p. 4)

Given the lack of interest in weighting mixed systems, DOE will continue to allow mixed represented values only as a straight average of two individual systems represented values containing homogenous kinds of indoor units (*i.e.,* non-ducted, ducted, or SDHV) tested with the appropriate method of test in the DOE test procedure.

Determining Represented Values for Specific Individual Combinations

Several stakeholders commented on whether DOE's proposed definition in the June 2010 NOPR for ''tested combination'' would be appropriate for determining represented values for specific individual combinations, or whether manufacturers prefer more flexibility, such as ability to test more than 5 indoor units. See 75 FR 31223, 31231 (June 2, 2010).

UTC/Carrier commented that rating multi-split systems with more than 5 units is unnecessary, because all manufacturers offer indoor units with a nominal capacity of up to at least 12,000 BTU/hr. (UTC/Carrier, No. 62 at p. 5)

Mitsubishi commented that the original intent of the proposed ''tested combination'' definition was to provide variable-speed multi-split (VSMS) system manufacturers with a method to provide efficiency and capacity ratings that would be representative of all the combinations associated with a specific outdoor unit. Mitsubishi stated that DOE based the ''tested combination'' concept on the fact that the outdoor unit is the primary driver for efficiency and capacity and that DOE recognized that, if a manufacturer had ''specific'' combinations that had higher efficiencies than the ''tested combination,'' then the manufacturer could test and rate that ''specific'' combination and enter it into the AHRI VSMS Directory of Certified Products. Mitsubishi recommended that DOE continue this process because it provides the VSMS manufacturer with the best opportunity to highlight top-performing combinations. (Mitsubishi, No. 68 at p. 3)

Unico supported the proposed DOE definition of ''tested combination'' and stated that there is no need to rate individual combinations unless the manufacturer chooses to rate all possible combinations (for example, if a manufacturer has a limited number of indoor models). Unico commented that single-split systems (one indoor unit) using the same outdoor unit used for multi-split systems should continue to be rated individually. (Unico, No. 63 at p. 4)

NEEA and NPCC acknowledged that combinations that might fall outside the current definition of ''tested combination'' systems do exist and are installed on a regular basis. The testing burden would be relatively small, as only the largest-capacity systems are capable of operating with more than 5 indoor units. (NEEA and NPCC, No. 64 at p. 4)

AHRI and Nortek commented that they do not believe the tested combination approach is appropriate for rating specific individual models. (AHRI, No. 70 at p. 16; Nortek, No. 58 at p. 13)

Rheem commented that the benefits of mix match ratings for multi-split systems are the same as those provided by mix match ratings for split systems. Rheem stated that consumers expect the ratings provided by DOE to reflect the operation of the system in their home and concluded that outdoor units should be rated to the worst case scenario and manufacturers should use an AEDM to determine the other combinations of indoor and outdoor units. On the other hand, DOE notes that Rheem also commented that a configuration that represents the highest sales volume should be established for multi-split systems. (Rheem, No. 69 at p. 5)

After reviewing the comments, DOE maintains its proposal to allow manufacturers to rate individual combinations as additional basic models beyond the required tested combinations. DOE agrees with Rheem and Mitsubishi that consumers and utilities often find benefit for having represented values for a wide variety of combinations that are available for installation.

DOE also agrees with Unico that single-split systems (one indoor unit) using the same outdoor unit used for multi-split systems must continue to be rated individually.

Sample Size

Several stakeholders commented on DOE's request for information and data on manufacturing and testing variability associated with multi-split systems that would allow it to understand how a single unit may be representative of the population and what tolerances would need to be applied to represented values based on a single unit sample in order to account for variability.

Lennox commented that multi-split products are subject to the same type of variability as a conventional unit in areas such as compressor variation, coil performance variation, charging, airflow, expansion device, etc. Lennox did not support an allowance for OUM manufacturers of multi-split products to be rated based on a single unit test while OUM manufacturers of conventional products are required to test a minimum of two samples to meet statistical confidence levels. Lennox asserted that all OUM-manufactured products should be required to meet the same minimum test requirements. (Lennox, No. 61 at p. 14)

Mitsubishi and Rheem also recommended that the ratings be established based on the testing of at least two samples. (Mitsubishi, No. 68 at p. 3; Rheem, No. 69 at p. 6)

The California IOUs commented that, in addition to manufacturing variances, controls software creates an additional source of variability in the performance of multi-split systems. The California IOUs asserted that software drives the performance of these variable capacity units based on the input from indoor and outdoor sensors. They stated that, until DOE-vetted data is available for these controls, the use of results from a single unit test for rating is inadvisable. (California IOUs, No. 67 at p. 4)

Unico commented that a single unit test is adequate provided the manufacturer rates a system conservatively. Specifically, Unico said that a manufacturer should not be permitted to rate a product directly using the result of the single test; instead, the manufacturer can generate a rating from a single test through derating the measured performance. Unico gave the example that the rated capacity and efficiency of a system should be at least 95 percent less than the single test result. If two or more tests are conducted, then Unico suggested that the rating could be the mean value or less. (Unico, No. 63 at p. 4)

Goodman suggested that, if DOE mandates that ratings for a single given kind of air conditioner (ducted, non-ducted or mixed) be based on two sample systems, then OUMs should be able to use AEDMs to rate some of the kinds of systems. Goodman stated that, because many multi-split and multi-head mini-split systems use the same indoor products for multiple sizes (*e.g.,* a 2-ton system may use two 1-ton indoor units while a 3-ton system may use three of the exact same 1-ton indoor units), a method to use an AEDM should be developed for rating non-tested systems. Goodman gave the example that, if one OUM chose to test two sample systems of non-ducted indoor units, it should be able to rate ducted and mixed systems based on an AEDM. Goodman asserted that, if the OUM chose to have a single rating for all combinations of ducted indoor units, then the AEDM would obviously have to be used to rate the combination of ducted indoor units with the lowest efficiency rating. Goodman gave a contrasting example that, if another OUM chose to rate multiple different combinations of ducted indoor units, then each combination would be rated using an AEDM. (Goodman, No. 73 at p. 13)

AHRI and Nortek recommended that DOE maintain consistency with its AEDM approach used in the commercial HVAC equipment such that, at a minimum, manufacturers would test two low static units and apply the AEDM to derive ratings for the high static and mixed ratings. (AHRI, No. 70 at p. 16; Nortek, No. 58 at p. 13)

As previously noted, Rheem stated that outdoor units should be rated to the worst case scenario and manufacturers should use an AEDM to determine the other combinations of indoor and outdoor units. (Rheem, No. 69 at p. 5)

After reviewing the comments, DOE found that commenters did not provide data on manufacturing and testing variability that would support DOE moving to a single unit sample approach. In response to Goodman, AHRI, Nortek, and Rheem, DOE notes that DOE's current regulations require that represented values for a single kind of system be based on testing a sample of at least two units representative of production units. For these reasons, DOE is not moving to a single unit sample approach and also declines to require only the represented values of a single kind of system to be based on testing while allowing other kinds of systems to be represented using an AEDM, given that the adopted testing requirements do not increase test burden compared to the current regulations. DOE is allowing use of an AEDM for off-mode, as discussed in section III.B.8.

Summary

In summary, Table III.2 provides an example of allowable represented values for multi-split, multi-circuit, and multi-head mini-split systems.

TABLE III.2—EXAMPLE REPRESENTED VALUES FOR MULTI-SPLIT SYSTEMS

Basic model	Individual model (outdoor unit)	Individual model(s) (indoor unit)	Sample size	Ducted rep. value	Non-ducted rep. value	Mix rep. value (D/ND)	SDHV rep. value	Mix rep. Value (SDHV/D)	Mix rep. value (SDHV/ND)
ABC	ABC	***	4	14	15	14.5			
ABC–ND1	ABC	2–A123; 3–JH746	2		17				
ABC–SDHV	ABC	***	6				11.5	12.75	13.25

d. Basic Models Rated by ICMs

In the November 2015 SNOPR, DOE proposed to require ICMs to test and provide certified ratings for each model of indoor unit (*i.e.,* basic model) with the least-efficient model of outdoor unit with which it will be paired, where the least-efficient model of outdoor unit is the outdoor unit in the lowest-SEER combination as certified by the OUM. If more than one model of outdoor unit (with which the ICM wishes to rate the model of indoor unit) has the same lowest-SEER rating, the ICM may select one for testing purposes. ICMs must rate all other individual combinations of the same model of indoor unit, but may determine those ratings through testing or use of an AEDM. 80 FR 69278, 69288 (Nov. 9, 2015).

AHRI, ADP, Lennox, Mortex, and First Co. commented that DOE's proposed changes to the definition of ''basic model'' with respect to ICMs, along with the proposed requirement to test at least one combination within each basic model, presents a significant testing burden to ICMs. (First Co., No. 56 at p. 1; AHRI, No. 70 at p. 3; ADP, No. 59 at p. 1; Lennox, No. 61 at p. 4) In order to avoid this burden, AHRI, ADP, Lennox, and Mortex recommended DOE adopt and define the term ''Similarity Group,'' a group of ICM basic models within a defined range of coil geometries, with performance substantiated by the same validation test, and require testing of a Similar Group rather than testing of each basic model. The range of coil geometries within a Similarity Group would be defined by: face area within ± 1 square feet (*e.g.* 2–4, 4–6, etc.), fin material (*e.g.* aluminum, copper), fin style (*e.g.* wavy, louvered), fin density within ± 1 fin per inch (*e.g.* 10–12, 13–15, etc.), number of rows, tube pattern (*e.g.* 1 × 0.625, 1 × 0.75, etc.), tube size (*e.g.* outer diameter for round tube, channel characteristic size for microchannel), and tube internal enhancement (*e.g.* smooth or enhanced). (AHRI, No. 70 at p. 5; ADP, No. 59 at p. 2–3; Mortex, No. 71 at p. 4–6; Lennox, No. 61 at p. 5) AHRI, ADP, Mortex, and Lennox noted that in the proposed framework, Similarity Groups may span AC and HP operations as well as coil-only and blower coil combinations. (AHRI, No. 70 at p. 6; ADP, No. 59 at p. 3; Mortex, No. 71 at p. 6; Lennox, No. 61 at p. 6)

However, the commenters noted that the proposed Similarity Group concept would not replace the concept or definition of an ICM basic model. Instead, a Similarity Group would be a group of basic models for defining AEDM validation test requirements, and the ICM basic model would still be used for other aspects of the certification and enforcement scheme as noted in the SNOPR. (AHRI, No. 70 at p. 7; ADP, No. 59 at p. 4; Mortex, No. 71 at p. 7; Lennox, No. 61 at p. 7)

With regard to DOE's proposed definition of basic model for ICMs, Lennox requested that tube wall thickness not be required as part of a certification report as to protect business sensitive design information. (Lennox, No. 61 at p. 3)

UTC/Carrier, Rheem, and the Joint Advocates of ACEEE, NRDC, and ASAP supported DOE's proposal for ICMs to test each model of indoor unit with the lowest-SEER model of outdoor unit that is certified as a part of a basic model by an OUM. (UTC/Carrier, No. 62 at p. 6; Rheem, No. 69 at p. 6; ACEEE, NRDC, ASAP, No. 72 at p. 2) UTC/Carrier appreciated leveling the playing field closing this loophole advantage for ICMs. (UTC/Carrier, No. 62 at p. 6)

On the other hand, AHRI, ADP, Lennox, and Mortex commented that testing is necessary to validate product performance and each ICM's AEDM, but that the requirement to test every basic model presents an excessive burden on ICMs. (AHRI, No. 70 at p. 3; ADP, No. 59 at p. 1; Mortex, No. 71 at p. 3; Lennox, No. 61 at p. 4) First Co. also commented that the result of DOE's proposal is excessive testing. (First Co., No. 56 at p. 1)

AHRI analyzed data from the AHRI Directory of Certified Product Performance, considering air conditioning, heat pump, coil-only and air handler ratings, but omitting due to time limitations air flow, external static pressure and power input. The results indicated that each ICM has between 287 and 604 basic models for which they would have to bear the cost of testing, which AHRI estimated would increase several-fold if accounting for the additional parameters. AHRI stated that it used an estimate of testing costs for one system at an independent lab of $7,400 for AC and $10,000 for HP because many ICMs do not have their own labs. Therefore, by AHRI's calculations, the ICM with the smallest number of basic models from their analysis would be required to perform 574 tests for an estimated $5,740,000 in testing costs. In addition, a test takes approximately one day, so 574 tests would take approximately two years to complete. (AHRI, No. 70 at p. 4–5)

For these reasons, AHRI, ADP, Mortex, and Lennox recommended that DOE require all ICM ratings to be based on an AEDM, where the ICM would test and rate at least one combination of an outdoor unit with the lowest SEER that complies with standard per Similarity Group. They also recommended that the ICM perform at least one full-system test per Similarity Group, or if the ICM was rating HP combinations, the ICM test one-third of the Similarity Groups with HP systems in both heating and cooling modes; and certify all combinations before they are distributed in commerce. (AHRI, No. 70 at p. 5–6; ADP, No. 59 at p. 2–3; Mortex, No. 71 at p. 4–6; Lennox, No. 61 at p. 5) AHRI, ADP, Mortex, and Lennox noted that applying this scheme to the AHRI Directory results in between 26 and 64 tests for the same ICM companies analyzed above. AHRI, ADP, Mortex, and Lennox believed that their suggested method provides for an extremely high level of AEDM validation while creating a manageable testing burden on ICMs. (AHRI, No. 70 at p. 6; ADP, No. 59 at p. 3–4; Mortex, No. 71 at p. 6; Lennox, No. 61 at p. 6–7)

First Co. and Unico also supported AHRI's approach. First Co. commented that the use of a Similarity Group would be a more realistic and workable approach that would enable ICMs to reduce testing for comparably performing indoor coils and to validate performance for the group by the same test. (First Co., No. 56 at p. 1) Unico recommended that DOE require the OUM to have at least two tests for each basic model (the outdoor unit) and the ICM to have at least one test from each Similarity Group in order to validate the AEDM. Unico also noted that the ICM testing requirements would increase significantly compared to what they are today even under AHRI's suggestion. (Unico, No. 63 at p. 4–5)

After reviewing the comments, DOE agrees with the manufacturers that its proposed definition of basic model with respect to ICMs, combined with the proposed testing requirements, may result in a significant test burden for ICMs. In order to balance the burden of testing with the risk of enforcement action, DOE is adopting aspects of the suggested ''Similarity Group'' as a replacement to its proposed definition of basic model. Hence, the basic model definition for ICMs established in this final rule includes all individual combinations having comparably performing indoor coil(s) [plus or minus one square foot face area, plus or minus one fin per inch fin density, and the same fin material, tube material, number of tube rows, tube pattern, and tube size].

DOE also agrees that manufacturers should test one combination per what the AHRI and manufacturer calls ''Similarity Group'', and what DOE will call a basic model for ICMs. However, DOE does not agree that testing should only serve to validate AEDMs. In order to accurately rate these non-engineered-to-order products by capturing the variability in the manufacturing processes, all combinations required to be tested must be tested according to the sampling plan in 429.16, which generally requires a sample of at least two units of the basic model. DOE notes that AHRI's calculation of burden assumes that ICMs have not been testing under current regulations, which is not consistent with existing DOE regulations. In addition, by changing the proposed definition of basic model to align with the similarity group proposal, DOE has significantly reduced the proposed test burden on ICMs.

DOE notes that because basic models do not span product classes, unlike in the stakeholders' proposal, each Similarity Group is limited to either air conditioners or heat pumps; however, in response to the stakeholders' request that only one-third of Similarity Groups need be tested in both cooling and heating mode, DOE is not requiring testing for basic models of heat pumps as long as an equivalent basic model of air conditioner has been tested.

DOE also notes that while off-mode power consumption requirements apply to ICMs, the represented values for off-mode may be based on the results of testing by the OUM according to the requirements in 429.16.

In response to Lennox's request to remove tube wall thickness from the definition of basic model, DOE notes that the Similarity Group requirements DOE is adopting in its basic model definition for ICMs do not include tube wall thickness; in addition, as noted in section III.A.1.c, DOE did not propose that manufacturers report this information regardless of its inclusion in this definition.

e. Single-Package Systems

In the current regulations, 10 CFR 429.16(a)(2)(i) states that each single-package system must have a sample of sufficient size tested in accordance with the applicable provisions of Subpart B. In the November 2015 SNOPR, DOE proposed that the lowest SEER individual model within each basic model must be tested. DOE expected that in most cases, each single-package system would represent its own basic model. However, based on the definition of basic model in section III.A.1, this may not always be the case. DOE noted that regardless, AEDMs do not apply to single-package systems—manufacturers may either test and rate each individual single-package system or, if multiple individual models are assigned to the same basic model per the proposed requirements in the basic model definition, test only the lowest SEER individual model within the basic model and use that to determine the

rating for the basic model. 80 FR 69278, 69288 (Nov. 9, 2015).

DOE also proposed to specify this same requirement for space-constrained single-package air conditioners and heat pumps. 80 FR 69278, 69288 (Nov. 9, 2015).

DOE requested comment on the likelihood of multiple individual models of single-package units meeting the requirements proposed in the basic model definition to be assigned to the same basic model. DOE also requested comment on whether, if manufacturers are able to assign multiple individual models to a single basic model, manufacturers would want to use an AEDM to rate other individual models within the same basic model other than the lowest SEER individual model.

In response, Lennox commented that the use of basic models that meet the defined requirements should not be restricted to split-system products because allowing groupings in a basic model may allow the use of AEDMs for single-package products to reduce testing burden. (Lennox, No. 61 at p. 14) UTC/Carrier supported that different options would be assigned to [individual models within] the same basic model and supported the ability to have unique ratings for units with different options without additional testing. (UTC/Carrier, No. 62 at p. 6–7)

JCI stated that it, in general, would prefer to test single-package units, especially the single-phase models. For 3-phase (commercial) products, JCI would opt to utilize an AEDM. (JCI, No. 66 at p. 15)

Rheem disagreed that manufacturers should not be allowed to use AEDM to rate packaged units; Rheem would want to use an AEDM to rate other individual models within the basic model for packaged units. (Rheem, No. 69 at p. 3, 6–7)

In response to these comments, DOE is modifying the regulations to permit the use of AEDMs for models of single-package units in cases where multiple individual models are assigned to the same basic model. The lowest SEER individual model in the basic model still will be required to be tested. DOE believes that the lowest SEER model will typically be similar to the highest sales volume model.

f. Replacement Coils

In the November 2015 SNOPR, DOE noted that its proposed definition of ''indoor unit'' refers to the box rather than just a coil. Accordingly, legacy indoor coil replacements and uncased coils would not meet the definition of indoor unit of a central air conditioner or heat pump. Hence, they would not need to be tested or certified as meeting the standard. 80 FR 69278, 69289 (Nov. 9, 2015).

DOE received several comments in response to this proposal. These comments have been addressed as part of DOE's definition of ''indoor unit,'' discussed in section III.A.2.

g. Outdoor Units With No Match

For split-system central air conditioners and heat pumps, current DOE regulations require that manufacturers test the condensing unit and ''the evaporator coil that is likely to have the largest volume of retail sales with the particular model of condensing unit'' (commonly referred to as the highest sales volume combination or HSVC). 10 CFR 4429.16(a)(2)(ii). Effective January 1, 2010, the U.S. Environmental Protection Agency (EPA) banned the sale and distribution of those central air conditioning systems and heat pump systems that are designed to use HCFC–22 refrigerant. 74 FR 66450 (Dec. 15, 2009). EPA's rulemaking included an exception for the manufacture and importation of replacement components, as long as those components are not pre-charged with HCFC–22. *Id.* at 66459–60.

Because complete HCFC–22 systems can no longer be distributed, manufacturers inquired how to test and rate individual components. Because the EPA prohibits distribution of new HCFC–22 condensing unit and coil combinations (*i.e.,* complete systems), there is no such thing as a HSVC, and hence, testing and determination of represented values of new HCFC–22 combinations cannot be conducted using the existing test procedure.

Accordingly, DOE proposed a test procedure that may be used for determining represented values and certifying the compliance of these outdoor units. DOE proposed to specify coil characteristics to be used when testing models of outdoor units that do not have a HSVC. Specifically, these requirements included limitations on indoor coil tube geometries and dimensions and coil fin surface area. In the November 2015 SNOPR, DOE proposed to require the normalized gross indoor fin surface (NGIFS) calculated for the indoor unit used for the test to be no more than 1.15. 80 FR 69278, 69289 (Nov. 9, 2015). NGIFS is the fin surface area divided by the unit's capacity. By imposing a limit on this value, the size of the indoor coil would be consistent with older model designs that would likely be installed in the field and that do not include a common design approach for improving efficiency, *i.e.* use of larger coils. Attaining a given efficiency level when testing a combination having a lower-NGIFS indoor unit requires use of a more efficient outdoor unit to compensate. These outdoor unit models must meet applicable Federal standards when tested with the specified indoor units.

General Comments

AHRI, URI, Nortek, HARDI, Goodman, UTC/Carrier, Rheem, and JCI submitted comments against adding the test procedure provisions for outdoor units with no match. (AHRI, No. 70 at p. 2; United Refrigeration, Inc., No. 60 at p. 3–4; Nortek, No. 58 at p. 2; HARDI, No. 57 at p. 2; Goodman, No. 73 at p. 17–18; UTC/Carrier, No. 62 at p. 22–23; Rheem, No. 69 at p. 3; JCI, No. 66 at p. 5)

Nortek and UTC/Carrier expressed concern that offering a test procedure for units with no match could potentially open up a larger loophole than what DOE is attempting to fix with this proposal. (Nortek, No. 58 at p. 2; UTC/Carrier, No. 62 at p. 23) Similarly, Nortek and HARDI noted that there have been no instances of a company trying to sell an outdoor unit without match that failed to meet existing standards. (Nortek, No. 58 at p. 2; HARDI No. 57 at p.1)

Conversely, Lennox, NEEA, NPCC, and the Joint Advocates of ACEEE, NRDC and ASAP concurred with DOE's proposal to require testing and rating of dry-ship units. (Lennox, No. 61 at p. 2; NEEA and NPCC, No. 64 at p. 3; ACEEE, NRDC and ASAP, No. 72 at p. 2)

DOE acknowledges these comments and responds to particular concerns about its proposal in subsequent sections.

URI commented that the Department's proposal not only would ban the manufacture of new replacement units, it also would impose significant cost burdens on manufacturers and distributors of replacement HCFC–22 components. URI suggested that under DOE's proposal, replacement unit manufacturers that tested and certified HCFC–22 products in good faith reliance of the various test procedure guidance documents issued by the Department would be unable to advertise or sell these units. URI requested that DOE evaluate the impacts of replacing rather than repairing and maintaining an HCFC–22 unit, particularly on those consumers who live on a fixed income, and that DOE assess whether, as a practical matter, this test procedure amendment would adversely impact the availability of replacement components for the installed base of HCFC–22 units.

(United Refrigeration, Inc., No. 60 at p. 8–9)

In response to URI, DOE's approach in developing the test procedure requirements for outdoor units with no match is based on the concept that the test should produce results that measure energy efficiency during a representative average use cycle. (42 U.S.C. 6293 (b)(3)) Further, the test procedure addresses the fact that these units have no match. Unmatched outdoor units are primarily used as a low-cost alternative to replacement of an entire legacy system when the outdoor unit is no longer operational. Specifically, in such installations, only the outdoor unit would be replaced, rather than both the outdoor unit and indoor unit. In addition, such units would be installed using HCFC–22, which is no longer legal for use in new systems.

DOE developed this amended test procedure with the goal of ensuring that the unmatched outdoor unit should be compliant when tested with an indoor unit that is representative of indoor units in the field with which the outdoor unit could be paired. DOE's goal was to provide a method of test, consistent with the current standards, that meets the statutory requirement of measuring a representative average use cycle. Hence, the indoor unit specifications are intended to represent among the lesser-efficient units that could be paired with a given outdoor unit with no match. DOE believes this approach is consistent with the requirement that the represented value for a basic model reflect the performance of the poorest-performing model that is part of the basic model.

In response to URI's comments regarding evaluation of cost burdens and impacts of the test procedure change, DOE notes that its energy conservation standard rulemakings have already evaluated the costs and benefits of specific efficiency levels for central air conditioners and heat pumps. This test procedure provides a mechanism of assessing the performance of unmatched outdoor units, which can then be used to provide a reasonable level of assurance that all field-match combinations of the new, unmatched outdoor units will achieve the established efficiency levels. DOE is now adopting the November 2015 SNOPR approach for testing and determining represented values for unmatched outdoor units based on stakeholder comment.

Goodman had concerns about unforeseen and unintended consequences when moving forward with alternate refrigerants at some date in the future, especially as the requirements for applying air conditioners and heat pumps with these likely A2L refrigerants is unknown. Goodman stated that it expects that, with currently known alternate refrigerants, there may be a need for certain low-income and elderly consumers to have cost-effective replacement air conditioners. Goodman also noted that it has apprehensions that providing a test procedure provides a path for HCFC-22 ''dry ship'' products to continue in the marketplace. (Goodman, No. 73 at p. 18)

DOE responds that it cannot set test procedure requirements based on speculation about the potential cost impact of future refrigerant changes on air-conditioning product costs. In response to the second comment, DOE points out the suggestion of commenters that DOE's proposal will limit sales of these units—URI for example indicated that the test procedure will effectively end the manufacturer of such components (URI, No. 60 at p. 2). While DOE does not agree with this assessment, DOE also does not believe that the approach will increase manufacturer of such units.

DOE Authority

In its comments, JCI stated that it was not certain that DOE has the authority under EPCA to create a test procedure to allow for units with no match. (JCI, No. 66 at p. 6)

URI commented that the DOE's November 2015 SNOPR test procedure, if finalized, would violate EPCA, as amended, as well as the Administrative Procedure Act. URI asserted that DOE had proposed a restriction on representations for already manufactured and certified units and that the proposal would invalidate the expectation-backed investments of manufacturers and distributors, constituting a violation of the Fifth Amendment to the U.S. Constitution. URI characterized DOE's proposal as an effective ban on condensing units using HCFC–22 that also would impose significant cost burdens on consumers. (United Refrigeration, Inc., No. 60 at p. 2, 3–5)

URI also commented that a test procedure change for replacement HCFC–22 systems is not needed, and that DOE has not articulated a valid basis for its proposal, as required by EPCA. URI argued that DOE's proposed test procedure change for replacement HCFC–22 systems would violate the Administrative Procedure Act, which requires an agency to ''examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.''' 5 U.S.C. 553, *Motor Vehicle Manufacturers Ass'n* v. *State Farm Mutual Automobile Insurance Co.,* 463 U.S. 29 (1983)). URI said that the DOE did not only fail to explain why the change to the test procedure for replacement units is necessary, but also failed to acknowledge the de facto ban it is proposing for such units. URI argued that DOE does not have the authority to impose a ban on replacement units and asserted that, even assuming that DOE has the authority to impose such a ban, that EPCA prohibits the Department from implementing such an action through a test procedure amendment. (United Refrigeration, Inc., No. 60 at p. 5)

URI also argued that DOE could not circumvent the prohibition against retroactive effect by belatedly ''clarifying'' that HCFC–22 condensing components are basic models in and of themselves, even assuming that the EPCA would allow such a comprehensive revision of the ''basic model'' via test procedure rulemaking. (United Refrigeration, Inc., No. 60 at p. 9)

Contrary to URI's assertions, DOE is not, in this rule, imposing a de facto ban on condensing units using HCFC–22. DOE is amending a test procedure and, in accordance with the applicable provisions of EPCA, is ensuring that the test procedure is reasonably designed to measure the energy efficiency and energy use of unmatched outdoor units in a manner that is comparable to that of other complete systems. DOE clearly articulated the basis for its proposal and has explained again here the need for a test procedure applicable to unmatched outdoor units. Regarding the amended definition of basic model in today's rule, DOE is not proposing that the definition, as amended, be applied retroactively.

Test Procedure Details Including Specification of Indoor Unit

Stakeholders provided a range of comments regarding whether the proposed details of the test for outdoor units with no match are suitable.

Nortek, Ingersoll Rand, and Goodman questioned how DOE determined the proposed value for NGIFS and that the default coefficient of cyclic degradation should be used for these units, and requested that DOE provide supporting evidence. (Nortek, No. 58 at p. 2; Ingersoll Rand, No. 65 at p. 12; Goodman, No. 73 at p. 18)

URI commented that it is simply impossible for any HCFC–22 replacement component to meet the 13

SEER standard using the amended test procedure, stating that the proposed coil size limitation makes no sense as such coils were used in HCFC–22 units rated to 10 SEER. URI also asserted that the proposed coefficient of cyclic degradation improperly excludes units that use thermostatic expansion valves, rather than orifice tubes, to control the flow of refrigerants, thus penalizing the efficiency rating approximately 6% (for example, a 13 SEER unit with a thermostatic expansion valve would instead rate at 12.2 SEER). (United Refrigeration, Inc., No. 60 at p. 2, 7)

Goodman noted that by specifically choosing the 1.15 maximum NGIFS (especially without deference to the type of fin used), DOE is choosing indoor coils that are smaller, but not smallest, in size. Goodman commented that based on the information it has, the value of 1.15 would favor one manufacturer, which has all of its ''no-match'' units rated with indoor coils having less than 1.15 NGIFS, while at least two manufacturers have zero ''no-match'' units rated with indoor coils having less than 1.15 NGIFS. Goodman commented that DOE should not ignore fin surface type in the NGIFS calculation, and that if DOE's intent is intent is to specify an indoor coil size such that it is virtually impossible for an OUM to have an outdoor unit with no match that can achieve 13 or 14 SEER as a system, then DOE should choose an NGIFS in the range of 0.90 or less using the proposed NGIFS formula. (Goodman, No. 73 at p. 18–19)

JCI commented for a 10 SEER product, the value of NGIFS of 1.15 is too small. The NGIFS of 10 SEER products made by JCI was 1.25, and these products will have been out of production for 10 years by the time this SNPOR is effective. JCI said that, at this point, when an outdoor unit fails, approximately 40% to 50% would be 13 SEER plus equipment. A reasonable NGIFS for 13 SEER equipment would be 1.30, which is the average for JCI's 13 SEER HCFC–22 product when the EPA ban on new produced equipment shipped with HCFC–22 took effect in 2010: averaging the 10 SEER and 13 SEER values leaves a value of 1.28. JCI believes this value to be a more representative value for NGIFS and recommends DOE adopt it. (JCI, No. 66 at p. 5–6)

Ingersoll Rand provided data on the 61 HCFC–22 systems that they had on the market before HCFC–22 was phased out. For the HSVCs of these 61 models, the NGIFS ranged from 0.9784 to 1.9082 with a mean of 1.2692 and a standard deviation of 0.2215. Ingersoll Rand recommended a value of 1.75 for the final rule. (Ingersoll Rand, No. 65 at p. 12)

JCI commented that modern heat exchanger technology such as that found in microchannel heat exchangers significantly reduces the refrigerant charge and thus reduces the cycling losses, resulting consistently in degradation coefficient values under 0.10 with piston metering (expansion) devices, or non-bleed TXVs. JCI recommended that rather than requiring use of the default degradation coefficient value, DOE should specify the type of expansion device it believes would be used in the legacy indoor units, which in most instances would be a piston or fixed orifice construction. (JCI, No. 66 at p. 6)

As mentioned above, DOE's approach in developing the test procedure requirements for outdoor units with no match is based on the concept that the test should produce results which measure energy efficiency during a representative average use cycle (see 42 U.S.C. 6293(b)(3)) while also ensuring that they will generally meet the standard. By their nature, however, neither the manufacturer nor DOE knows exactly what the paired system will be. DOE evaluated indoor unit specifications representing units across the spectrum that would likely be paired with the ''no match'' units. To ensure compliance, DOE proposed indoor unit specifications that it believed to be representative of a less efficient unit that could be paired with the given outdoor unit with no match.

In developing its proposal, DOE developed the indoor unit specifications (1.15 NGIFS and coefficient of cyclic degradation equal to the default) through reverse engineering 13 SEER split-system blower coil air conditioners designed to use HCFC–22. The 1.15 value is representative of the indoor units associated with the evaluated systems. All of these units had single-capacity compressors, and the indoor units had PSC fan motors. Although the NGIFS for these units ranged from 1.0 to 1.7, almost identical to the range of the data provided by Ingersoll Rand, DOE does not feel that establishing an NGIFS range is a valid approach, since this would be equivalent to setting the limit equal to the highest end of the range. In any case, both of these datasets are at odds with URI's claim that the 1.15 NGIFS makes attaining 13 SEER impossible. Regarding JCI's claim that the value is too small, the selected value is for an indoor unit that was part of an HCFC–22 unit rated at 13 SEER, hence it is certainly representative of the indoor units that may be installed in the field. In fact, DOE's selection of 1.15 did not consider the 10 SEER units whose indoor units are still in the field as well. In addition, the actual performance of the non-replaced legacy indoor units, represented in terms of NGIFS, generally will be significantly degraded. Degradation of indoor unit performance can be caused by numerous factors, including foulants coating external coil surfaces, caustic environments attacking fin material and/or fin/tube contact, inadequate air flow, and degraded oil fouling the internal tube surfaces. Consistent with the use of unmatched outdoor units for such system repairs as a low-cost alternative, it is questionable whether installation consistently addresses optimization of the system for operation at the diminished efficiency potential of the degraded legacy indoor unit. Consequently it is expected that laboratory testing of new models of unmatched outdoor units significantly overestimates the efficiency of these units when paired with old legacy indoor units in the field. The proposed maximum NGIFS of the indoor unit to be used in such a test is in the range of the values for legacy indoor units, but, because of the non-optimum field conditions, choosing a value that is an average or median for such legacy indoor units is not representative. Based on all of these considerations, DOE has decided to lower the required NGIFS for the test to 1.0. This level acknowledges degradation of indoor unit performance over time, questions regarding optimization of the indoor/outdoor unit match and of the installation, and that the range of indoor units in the field would also include 10 SEER units. This value is representative of the 13 SEER systems of both DOE's and Ingersoll Rand's datasets. DOE notes that the comments have not shown that this value is unrepresentative of the potential indoor unit pairings of no-match outdoor units. Furthermore, given that DOE believes this value is representative and that an NGIFS range is not a valid approach, DOE does not believe there is a need for AEDM for these units.

DOE understands that the type of fin surface has an impact on coil performance, as Goodman pointed out in its comment. Most of the fins of the evaporator coils of DOE's dataset were enhanced, having lanced or louvered surfaces, so DOE's assessment has considered the possibility that the fin surfaces would be enhanced. DOE believes that selecting the NGIFS limit based on enhanced-fin information is appropriate because any manufacturer conducting such a test would do so using an indoor unit that has enhanced

fins, which would provide an advantage to the manufacturers.

DOE notes JCI's comment that when an outdoor unit fails, 40% to 50% of the indoor units would have been rated 13 SEER or higher. This suggests that at least half would have been rated lower than 13 SEER. JCI also suggested that NGIFS might be 0.05 lower for a 10 SEER indoor unit than for 13 SEER. The Ingersoll Rand comment indicates that the NGIFS of their HCFC–22 models on the market prior to the refrigerant's phase-out was as low as 0.9784. Since the 13 SEER standard took effect in 2006, DOE presumes that these units all had a SEER value no lower than 13.

DOE agrees with JCI that advanced heat exchanger technology might improve system efficiency. In particular, microchannel heat exchangers may reduce refrigerant charge sufficiently to reduce degradation of performance associated with unit cycling. However, DOE is not convinced that the expansion devices, be they thermostatic expansion valves, pistons, or fixed-orifice devices, of all legacy indoor units are replaced with orifices optimized for the new paired combination using the intended refrigerant. DOE agrees that a degradation coefficient less than the default value may be achievable in a laboratory test while using a fixed orifice device, but is not convinced that this will consistently be achieved with field-paired combinations. JCI did not comment on the consistency of the replacement of the expansion devices in unmatched outdoor unit installations, so DOE cannot determine how many such installations include expansion devices that are optimized for the outdoor/indoor unit combination. It is reasonable to expect that numerous such installations do not involve installation of an optimized expansion device, since unmatched outdoor units are sold as a low-cost alternative to purchase of an entirely new system, and use of the existing expansion device would also reduce cost. Further, DOE notes that reduction of the cyclic degradation coefficient, as proposed in the November 2015 SNOPR, was based on the observation that most modern systems achieve degradation coefficients well below 0.2. DOE did not intend to assign this same value as the default for outdoor units without a match. Based on the same arguments regarding lack of optimization of the expansion devices, DOE does not believe it is appropriate to adopt the new-test default of 0.2 for these units and therefore is retaining the current degradation coefficient for them at 0.25.

Waiver Process and Change in the Measurement

Nortek, Goodman, and HARDI commented that manufacturers who would like to sell a condensing unit with no match should request a waiver from DOE. (Nortek, No. 58 at p. 2; Goodman, No. 73 at p. 18; HARDI, No. 57 at p. 2)

URI commented that the notice is silent on how the proposed coil limitation or NGIFS will improve the measured energy efficiency of replacement HCFC–22 condensing units and that DOE's view that these units should have been tested pursuant to a waiver doesn't make sense in light of guidance DOE issued in 2010, 2012, and 2014 . URI separately indicated that DOE has not clarified whether the test procedure change will alter the measurement and/or whether the standard would have to be adjusted as required by EPCA. (United Refrigeration, Inc., No. 60 at p. 6)

In response to Nortek, Goodman, and HARDI, DOE notes that the waiver process is a step towards establishing new procedure provisions in the CFR that address the test procedure issues raised by the waiver. In this case, as mentioned by some commenters, at the time of publication of the November 2015 SNOPR, there had been no petitions for waivers for outdoor units with no match. Test procedure waivers are not a long-term solution, however. DOE's regulations require DOE to amend its test procedure to address an issue raised through the waiver process. Therefore, even though DOE has not received any petitions for waivers for outdoor units with no match, DOE has long recognized the difficulty of reconciling the current test procedure language with the reality that manufacturers have no highest sales volume combination due to EPA regulations and proposed a test method to eliminate the regulatory incongruity between EPA's and DOE's regulations. DOE is finalizing a test procedure to eliminate the issue.

In response to URI, DOE acknowledges that its guidance document indicated that an individual condensing unit must meet the current Federal standard when paired with the appropriate other new part to make a system when tested in accordance with the DOE test procedure and sampling plan. However, as noted in the November 2015 SNOPR, generally when a model cannot be tested in accordance with the DOE test procedure, manufacturers must submit a petition for a test procedure waiver for DOE to assign an alternative test method. Nothing in the guidance documents indicated that this would not have been the case for these units.

In response to URI's comment suggesting that measured energy use must improve under a waiver procedure, DOE notes that a test procedure waiver is not intended to impact measured energy efficiency. Instead, a test procedure waiver provides a manufacturer with an alternative method of test that will yield results comparable to the test procedure in the DOE regulations. Test procedures are not a mechanism to impact the efficiency of a product, which is why DOE has carefully evaluated the characteristics of a paired system so as to avoid impacting measured efficiency relative to the current test procedure.

Transition From Coverage Under the Guidance Documents

URI commented that the test procedure would effectively end the manufacture of such components six months after the revised test procedure goes into effect. URI contended that it also would be prohibited from selling or distributing its existing inventory of properly certified and rated HCFC–22 replacement condensing units six months after the effective date because the notice makes clear that ''any representations, including compliance certifications,'' about the energy cost and efficiency of replacement condensing units must be based on the revised test procedure. (United Refrigeration, Inc., No. 60 at p. 2)

URI submitted that DOE should clarify in the preamble and regulatory text of a final test procedure that the restriction on representations does not apply to HCFC–22 condensing units that were manufactured and certified pursuant to the preceding DOE guidance. (United Refrigeration, Inc., No. 60 at p. 2)

In a letter to the Secretary of Energy, Lennox requested DOE to promptly issue guidance to prevent the entry of newly designed 14 SEER HCFC–22 dry-charge products into the southern and southwestern regions that do not meet the requirements of the DOE test procedure. Lennox commented that DOE action on these issues is particularly critical by early 2016, as manufacturers ramp up production for the 2016 summer air-conditioning sales season in that timeframe. (Lennox, No. 61 at p. 2)

Lennox requested DOE include mechanisms in the final rule to facilitate a quick and orderly market transition from legacy dry-shipped outdoor split-system central air conditioners and heat pumps certified to DOE as compliant

that are not rated in accordance with the test procedure final rule by requiring manufacturers to discontinue all non-compliant ratings 180 days after the final rule's publication. (Lennox, No. 61 at p. 2–3)

JCI recommended that no later than February 1, 2016, DOE should issue enforcement guidance stating that DOE will not seek civil penalties or injunctive relief for the distribution in commerce of a dry charged HCFC–22 unit (unit with no match), or for the labeling requirements of that unit, if the unit is manufactured prior to a date that is 30 days after the date of publication of the enforcement guidance. (JCI, No. 66 at p. 7)

On December 16, 2015, DOE issued an enforcement policy stating that it would begin investigating the methods manufacturers were using to rate split-system central air conditioners that do not have a highest sales volume combination. Those investigations are ongoing. DOE also stated that it would seek civil penalties for violations related to units manufactured on or after February 1, 2016, that had not been tested and properly certified as compliant with the applicable standards. As DOE indicated in the policy statement, DOE will continue to use its discretion in determining whether or to what extent penalties are appropriate, including an evaluation of a manufacturer's good faith efforts to comply with the regulations. DOE notes that this test procedure final rule does not have retroactive application; however, the units at issue have been subject to the energy conservation standards and certification requirements since 2006.

DOE also notes that following the close of the comment period for the November 2015 SNOPR, on December 1, 2015, an ex parte meeting occurred between AHRI, manufacturers, and DOE regarding outdoor units with no match. Representatives from Nortek, Mitsubishi, Carrier, Lennox, Trane, Rheem, JCI, ADM, Goodman, and Allied Air attended. During this meeting, the attendees requested that DOE require that ratings of existing dry R–22 units must be discontinued 180 days after the date of the publication of the amended test procedure in the **Federal Register**. (Docket No. EERE–2009–BT–TP–0004–0074) This recommendation indicates that existing ratings for outdoor units with no match are invalid and supports the need for a test procedure as finalized in this notice. DOE is implementing this recommendation consistent with EPCA, as discussed in section III.H.1.

4. Compliance With Federal (National or Regional) Standards

In the November 2015 SNOPR, DOE proposed to add requirements to the relevant provisions of section 430.32 that the least-efficient combination within each basic model must comply with the regional SEER and EER standards. 80 FR 69278, 69290 (Nov. 9, 2015). In addition, as noted in section III.A.1, DOE proposed that if any individual combination within a basic model fails to meet the standard, the entire basic model (*i.e.,* model of outdoor unit) must be removed from the market. In order to clarify the limitations on sales of models of outdoor units across regions with different standards, DOE proposed to add a limitation in section 429.16 that any model of outdoor unit that is certified in a combination that does not meet all regional standards cannot also be certified in a combination that meets the regional standard(s). Further,

Basic model	Individual model # (outdoor unit)	Individual model # (indoor unit)	Certified rep. value (SEER/EER)	Permitted?
AB12	ABC**#**–***	SO123	14.5/12.0	NO.
AB12	ABC**#**–***	SW123	15.0/12.8	
AB12	ABC**#**–***	N123	13.9/11.7	
CD13	CDESO**–*#*	SO123	14.5/12.0	YES.
CD13	CDESW**–*#*	SW123	15.0/12.8	
CD13	CDEN***–*#*	N123	13.9/11.7	
EF12	EFCS**#**–***	SO123	14.5/12.2	YES.
EF12	EFCS**#**–***	SW123	14.6/12.4	
EF12	EFCN**#**–***	N123	13.9/11.7	

DOE proposed to require that outdoor unit model numbers cannot span regions unless the model of outdoor unit is compliant with all standards in all possible combinations. If a model of outdoor unit is certified below a regional standard, then, under DOE's proposal, it must have a unique individual model number for distribution in each region. 80 FR at 69290 (Nov. 9, 2015).

For example:

The Joint Advocates of ACEEE, NRDC and ASAP commented that the approach proposed by DOE is workable and provides clear requirements for OUM rating systems. The Joint Advocates also commented that requiring a specific model number for outdoor units that are certified only in combinations that meet regional standard(s), and therefore permitted to be installed in those regions, will aid enforcement. The Joint Advocates also commented that DOE should clarify the requirements for ICMs, specifically how DOE would treat an ICM that attempts to certify a combination with a rating below 14 SEER using an outdoor unit model that otherwise meets 14 SEER in all combinations certified by the OUM. (ACEEE, NRDC and ASAP, No. 72 at p. 3)

Based on this comment, DOE adopts the limitation as proposed, with wording modifications for clarity. DOE has not added a limitation on ICMs certifying a combination below an OUM represented value, given that such a value would reflect the performance the consumer would experience. DOE has not modified 430.32 in this rulemaking and will instead do so in the regional standards enforcement rulemaking.

5. Certification Reports

To maximize test repeatability and reproducibility for assessment and enforcement testing, DOE proposed a number of amendments to the certification reporting requirements. 80 FR 69278, 69290 (Nov. 9, 2015).

Among these requirements, DOE proposed to clarify what basic model number and individual model numbers must be reported for central air conditioners and heat pumps. 80 FR 69278, 69290–91 (Nov. 9, 2015). DOE proposed to require the reporting of the sensible heat ratio (SHR) value calculated based on full-load cooling test conditions at the outdoor ambient conditions: 82 °F dry bulb and 65 °F wet bulb. 80 FR at 69326 (Nov. 9, 2015). Finally, DOE also proposed to require certain product-specific information at 10 CFR 429.16(c)(4) that would not be

displayed in DOE's public database. 80 FR at 69291 (Nov. 9, 2015).

NEEA and NPCC supported DOE's proposals for certification reports, specifically noting the importance that all combinations of individual model numbers within a basic model group can be identified and to identify the outdoor and indoor mini-split and multi-split system units that are rated as combinations. (NEEA and NPCC, No. 64 at p. 3) DOE adopts this provision in the final rule.

Regarding the basic model provision, AHRI commented that ICMs should be required to identify in the certification report the Similarity Group to which each indoor unit belongs. (AHRI, No. 70 at p. 5–6) DOE notes that it has adopted the Similarity Group structure recommended by AHRI as the basis for the basic model for ICMs. Hence, identification of the Similarity Group is not necessary.

The California IOUs commented that the proposal to require reporting of SHR is a good precedent for providing other data from tests and requested that results also be reported for all the tests that are the inputs to calculation of SEER and HSPF, as well as the results of the AHRI maximum operational conditions test.[8] (California IOUs, No. 67 at p. 4) On the other hand, AHRI, Lennox, ADP, UTC/Carrier, JCI, Goodman, and Nortek believe that SHR should not be reported as part of a certification report. (AHRI, No. 70 at p. 10; Lennox, No. 61 at p. 9; ADP, No. 59 at p. 7; UTC/Carrier, No. 62 at p. 8; JCI, No. 66 at p. 15–16; Goodman, No. 73 at p. 14; Nortek, No. 58 at p. 7) JCI noted that the publication of SHR should be left to the manufacturer as part of their technical literature, and UTC/Carrier noted that that information is already provided in the manufacturer's product data. (JCI, No. 66 at p. 12; UTC/Carrier, No. 62 at p. 7) AHRI, Lennox, ADP, Goodman, Nortek, and Rheem commented that the requirement to add reporting of SHR adds an excessive burden. (AHRI, No. 70 at p. 10; Lennox, No. 61 at p. 9; ADP, No. 59 at p. 7; Goodman, No. 73 at p. 14; Nortek, No. 58 at p. 7: Rheem, No. 69 at p. 8) ADP further commented that adding a requirement for SHR is significant for those OUM and ICM ratings developed by AEDMs, as manufacturers may not have this capability in their current AEDM. (ADP, No. 59 at p. 7) JCI further commented that the agreement made between AHRI members and advocates (presumably referring to the agreement in advance of the 2011 Direct Final Rule) was intended to encourage manufacturers to list SHR in manufacturer technical literature, not to make it a certified value. (JCI, No. 66 at p. 15–16)

After reviewing these comments, DOE agrees that the joint proposal from stakeholders that served as the basis for the 2011 Direct Final Rule regarding central air conditioners stated that manufacturers would make the SHR at 82 °F (at the rated airflow) available in in manufacturer technical literature and Web sites but that the SHR would not be verified or certified by AHRI. The parties agreed that DOE did not need to take regulatory action to implement this information sharing. (Docket No. EERE–2011–BT–STD–0011, No. 16 at p. 7) DOE did not account for this agreement in the November 2015 SNOPR, and in response to stakeholder comment within this docket, proposed to require reporting of SHR. However, given the existing stakeholder agreement that underlay the 2011 Direct Final Rule, DOE is not adopting the proposed requirement to certify SHR.

AHRI, ADP, Lennox, UTC/Carrier, Ingersoll Rand, JCI, Nortek, Rheem, Goodman, and Mitsubishi did not support the additional reporting requirements proposed by DOE and commented that they are a significant burden on manufacturers. (AHRI, No. 70 at p. 13–15; ADP, No. 59 at p. 7; Lennox, No. 61 at p. 14–15; UTC/Carrier, No. 62 at p. 7; Ingersoll Rand, No. 65 at p. 12; JCI, No. 66 at p. 15; Nortek, No. 58 at p. 11; Rheem, No. 69 at p. 7; Goodman, No. 73 at p. 14, 19; Mitsubishi, No. 68 at p. 2–3) AHRI, Lennox, UTC/Carrier, Nortek, JCI, Rheem, Goodman, and Mitsubishi also commented that some of the required data is proprietary and puts the manufacturer at risk. (AHRI, No. 70 at p. 13–15; Lennox, No. 61 at p. 14–15; UTC/Carrier, No. 62 at p. 7; Nortek, No. 58 at p. 11; JCI, No. 66 at p. 12; Rheem, No. 69 at p. 7; Goodman, No. 73 at p. 14, 19; Mitsubishi, No. 68 at p. 2) JCI and Mitsubishi expressed concern that confidential information could be revealed in a FOIA request. (JCI, No. 66 at p. 12; Mitsubishi, No. 68 at p. 2)

AHRI and Lennox each provided a list of information that they support DOE requiring. (AHRI, No. 70 at p. 13–14; Lennox, No. 61 at p. 14–15) Unico agreed in its comments with AHRI's position on the reporting burden associated with the certification reporting requirements. (Unico, No. 63 at p. 6) Nortek commented that it supports DOE requiring information that is already being submitted to AHRI for purposes of certification. (Nortek, No. 58 at p. 10–11) Mitsubishi commented that manufacturers should not be required to provide any physical information that is not needed to test the system. (Mitsubishi, No. 68 at p. 3) JCI commented that the only additional reporting information that should be added to the certification report is the off mode standby metric, and that no other unregulated items should be added. (JCI, No. 66 at p. 12)

Some stakeholders listed specific information that DOE should not require manufacturers to report. AHRI, Rheem, and JCI commented that DOE should not require manufacturers to report the orientation of a product's indoor coils and that, rather than reporting the process for manually entering the defrost cycle to DOE, manufacturers should describe that process in the product instructions. (AHRI, No. 70 at p. 13; Rheem, No. 69 at p. 7–8; JCI, No. 66 at p. 12) AHRI commented that for variable speed products, compressor frequency set points are proprietary to the manufacturer and therefore should not be reported to DOE. (AHRI, No. 70 at p. 15) Rheem commented that variable speed heat pump minimum and maximum speed blocks are proprietary and therefore should not be reported. (Rheem, No. 69 at p. 7–8) Goodman commented that their product nameplates do not explicitly state nominal capacity, nor do the majority of their competitors' products. Goodman recommended that the manufacturer provide the specific model numbers of the indoor unit tested rather than nominal capacity of each indoor unit. (Goodman, No. 73 at p. 6) Goodman also suggested that, instead of requiring manufacturers to solely report the general type of expansion device, DOE should require that manufacturers submit the same information (for fixed orifices, the orifice inside dimension (I.D.) and length; or, for expansion valves, the part number or model number) manufacturers currently submit to AHRI for each individual combination of a split-system air conditioner or split-system heat pump. (Goodman, No. 73 at p. 3–5)

Rheem commented that the addition of the requirement to certify airflow and C_D is a significant certification burden on manufacturers. Rheem noted that the documentation of the values measured during the test of a single sample cannot be applied to a second test, and that the averages of multiple measured values are even less applicable. Rheem stated that the certification of C_D requires that manufacturers provide a conservative value that would be applied to multiple test samples. Rheem suggested that the certification of a product should be based on actual product performance, as the use of a certified value of C_D would

[8] This test is conducted with 115 °F air entering the outdoor coil, see AHRI 210/240–2008, Table 13.

increase the variability of the test procedure and require more conservative ratings and redesign of minimum efficiency equipment. (Rheem, No. 69 at p. 7)

After reviewing the stakeholders' comments, DOE maintains that the certification reporting requirements proposed in the November 2015 SNOPR, except for SHR as previously discussed, are necessary for DOE to be able to conduct testing. None of the commenters indicated how DOE could properly conduct testing without the requested information. In the November 2015 NOPR, DOE proposed that this information would not be made available on the DOE public Web site. While the information may be subject to Freedom of Information Act (FOIA), DOE will seek to protect this information to the extent legally permissible.

For these reasons, DOE has adopted these requirements in the final rule, with minor modifications as discussed in relevant sections. In response to Goodman, DOE notes that the model numbers of indoor units are required in addition to nominal capacity, which is needed to verify appropriate unit selection used for certification testing. DOE also declines to require additional information beyond the type of expansion device, as DOE does not need this information to conduct testing. In response to Rheem, as noted in section III.A.7, DOE is only requiring manufacturers to report whether they used a default value for C_D or whether they conducted the optional test; manufacturers do not have to report the C_D value used.

In their comments, the California IOUs requested that DOE require the reporting of all test results that are inputs to the calculation of SEER and HSPF. In addition, they requested that DOE collect the results of the AHRI Maximum Operational Conditions tests, which they acknowledge would require adding these tests to Appendix M/M1. As in the case of SHR, they argued that this would not add to the test burden; it would only add the additional reporting of results, because all the measurements required to calculate SHR (*e.g.*, indoor air flow and indoor entering and leaving air conditions) are required as part of the current test. The California IOUs argued that consumers, incentive programs, and energy efficiency building codes need to have SEER and HSPF values that are calculated for specific climatic regions to enhance the value of the published SEER and HSPF that are calculated for climatic region 4. They said this would support the fair comparison of system performance and annual energy use costs. (California IOUs, No. 67 at p. 3–4)

In this final rule, DOE declines to add the additional reporting requirements recommended by the California IOUs as these are not necessary for DOE testing, and existing programs currently operate without the additional detail requested.

6. Represented Values

In the November 2015 SNOPR, DOE proposed to make several additions to the represented value requirements in 10 CFR 429.16. First, DOE proposed adding a requirement that the represented values of cooling capacity, heating capacity, and sensible heat ratio (SHR) must be the mean of the values measured for the sample. Second, DOE proposed to move the provisions currently in 10 CFR 430.23 regarding calculations of various measures of energy efficiency and consumption for central air conditioners to 10 CFR 429.16. DOE proposed minor changes to the calculations of annual operating cost to address other changes proposed in Appendix M. 80 FR 69278, 69291 (Nov. 9, 2015).

Lennox, ADP, and UTC/Carrier commented that SHR is currently published by manufacturers and that there is no benefit to adding a single point SHR as a represented value potentially subject to enforcement. (Lennox, No. 61 at p. 9; ADP, No. 59 at p. 7; UTC/Carrier, No. 62 at p. 8) On the other hand, Unico supported the requirement to submit SHR but only for reporting purposes, not for testing and enforcement. (Unico, No. 63 at p. 6)

Although DOE has determined that manufacturers should not be required to report SHR (see section III.A.5), DOE is adopting requirements on the represented values for SHR as proposed, in order to generate consistency in any representations of SHR made by industry.

AHRI, Lennox, JCI, Ingersoll Rand, Goodman, UTC/Carrier, and Nortek disagreed with the requirement that the represented capacity values must be the mean of the tested values, and recommended that DOE allow manufacturers to rate capacity conservatively. (AHRI, No. 70 at p. 10; Lennox, No. 61 at p. 8, 15; JCI, No. 66 at p. 15–16; Ingersoll Rand, No. 65 at p. 5; Goodman, No. 73 at p. 15; UTC/Carrier, No. 62 at p. 8; Nortek, No. 58 at p. 6) Rheem similarly commented that the addition of the requirement to certify cooling capacity and heating capacity is a significant certification burden and does not allow for manufacturers to rate capacity conservatively. (Rheem, No. 69 at p. 8) Nortek commented that DOE's proposal adds significant and unnecessary increased risk to a manufacturer due to increased exposure from enforcement testing. (Nortek, No. 58 at p. 6)

In its comments, Goodman noted that there is variability from sample to sample in any population of units. (Goodman, No. 73 at p. 15) Lennox commented that DOE's proposed use of mean values adds unnecessary risk and complexity in associated voluntary industry certification programs (VICP), such as AHRI. Lennox commented that manufacturers face stringent penalties through the AHRI VCIP program in the event of failure, and that manufacturers manage their financial and market risk through conservative ratings. Although DOE and VICPs may have different parameters for capacity metrics, Lennox believed DOE's proposal adds unnecessary complexity, which may confuse the consumer and bring into question the validity of different represented capacity values in the VICP program versus the DOE CCMS value. (Lennox, No. 61 at p. 8–9)

AHRI, Lennox, and JCI disagreed with DOE's proposal, stating that eliminating the conservative rating capacity would impact current ratings, which would require re-rating products. They contended that this requirement represents a significant and unnecessary burden that has no value to the consumer. (AHRI, No. 70 at p. 10; Lennox, No. 61 at p. 8; JCI, No. 66 at p. 7)

Several commenters recommended alternatives to DOE's proposal. Ingersoll Rand recommended that the average capacity on which to base the appropriate standard be determined using the same statistical method as used for determining SEER, but that the manufacturers be allowed to claim up to 5 percent lower in their rating. (Ingersoll Rand, No. 65 at p. 5) UTC/Carrier commented that the current procedure of using the mean or the statistically adjusted mean should be used and manufacturers should be able to de-rate the certified values as necessary to account for testing uncertainties in the audit facility as well as the manufacturer's test facility. (UTC/Carrier, No. 62 at p. 8) AHRI and Nortek commented that instead of implementing the mean of measured values for capacity, any represented value of the energy efficiency or other measure of energy consumption for which consumers would favor higher values should be less than or equal to the lower of: (1) The mean of the sample, or (2) the lower 90 percent confidence limit (LCL) of the true mean divided by 0.95. (AHRI, No. 70 at p. 10;

Nortek, No. 58 at p. 6–7) DOE understands that AHRI and Nortek supported DOE applying this approach to capacity as well.

After reviewing the comments, DOE is updating its proposal from the November 2015 SNOPR, which required represented values of cooling and heating capacity to be the mean of the sample. In this Final Rule, DOE is requiring the represented value of cooling (or heating) capacity to be a self-declared value that is no less than 95 percent of the mean of the cooling (or heating) capacities measured for the units in the sample selected for testing. This will allow manufacturers the flexibility to derate capacity with conservative values as requested by multiple commenters, while still providing consumers with information that is reasonably close to the performance they may expect when purchasing a system.

Goodman commented that DOE provided no guidance on how to treat systems rated by AEDM and that it is unreasonable to expect manufacturers to always rate at the exact value developed by a computer program. (Goodman, No. 73 at p. 15)

DOE agrees with Goodman. DOE's intent had been for represented values for systems rated by testing or AEDM to be determined similarly but had inadvertently left this requirement out of the AEDM portion of the regulatory text. To parallel the provision adopted for tested combinations, DOE is adopting a provision that the represented value of cooling (or heating) capacity must be no less than 95% of the cooling (or heating) capacity output simulated by the AEDM. DOE notes that, if a manufacturer believes the capacity predicted by the AEDM is more than 5% off of what the manufacturer would otherwise expect, then the manufacturer should be evaluating the validity of the AEDM in other respects.

Finally, DOE notes that Annual Performance Factor (APF) is not used for any regulatory program, and therefore DOE has removed all calculations and represented value requirements for APF in this final rule.

7. Product-Specific Enforcement Provisions

In the November 2015 SNOPR, DOE proposed to verify certified cooling capacity during assessment or enforcement testing. DOE proposed to measure the cooling capacity of each tested unit pursuant to the test requirements of 10 CFR part 430. If the measurement is within five percent of the certified cooling capacity, DOE would use the certified cooling capacity as the basis for determining SEER. Otherwise, DOE would use the measured cooling capacity as the basis for determining SEER. 80 FR 69278, 69292 (Nov. 9, 2015).

DOE also proposed to require manufacturers to report the cyclic degradation coefficient (C_D) value used to determine efficiency ratings. DOE proposed to run C_D testing as part of any assessment or verification testing, except when testing an outdoor unit with no match. If the measurement is 0.02 or more greater than the certified value, DOE would use the measurement as the basis for calculation of SEER or HSPF. Otherwise, DOE would use the certified value. For models of outdoor units with no match, DOE would always use the default value. 80 FR 69278, 69292 (Nov. 9, 2015).

Lennox, UTC/Carrier, Rheem, and JCI disagreed with DOE's proposal to use rated values in cooling capacity and in C_D testing. The commenters proposed that tested capacity and cyclic test values should be used in all determinations of efficiency and compliance. (Lennox, No. 61 at p. 9; UTC/Carrier, No. 62 at p. 8; Rheem, No. 69 at p. 2; JCI, No. 66 at p. 8) Rheem commented that the proposal to enforce SEER using certified values of cooling capacity and C_D has not been justified or shown to provide representative and repeatable results. (Rheem, No. 69 at p. 8) Unico supported the requirement to submit cooling capacity and heating capacity but only for reporting purposes, not for testing and enforcement. (Unico, No. 63 at p. 6)

In its comments, Lennox explained that, given the variability in component and manufacturing processes, product capacity and power can vary slightly from unit to unit. According to Lennox, if products are manufactured within the acceptable limits, the variations in capacity and power tend to be linear. Lennox added that DOE's proposal to fix capacity to the rated value in determining efficiency if measured within five percent of rating while allowing power to be a variable from the tested value can result in both false pass and fail results. (Lennox, No. 61 at p. 9–10) Lennox also commented that cyclic C_D testing is prone to variation from test to test on the same unit within the same facility—let alone lab to lab, and that the industry has spent a tremendous amount of resources studying variability issues and has developed recommendations for lab improvement. In particular, Lennox commented, the industry has developed a method for compensating for differences in thermal mass of the test facility used for testing. (Lennox, No. 61 at p. 10)

Nortek and JCI commented that the proposal to use a tolerance to determine if measured capacity is within 5 percent of rated capacity and from there, determining efficiency, would make it necessary for manufacturers to report capacity at all points necessary to determine SEER and HSPF. (Nortek, No. 58 at p. 7; JCI, No. 66 at p. 7–8) JCI commented that this is an increased burden of reporting without additional value. (JCI, No. 66 at p. 7–8) In addition to this burden, Nortek expressed concern that this could lead to overrating capacity. As efficiency is not tied to capacity, Nortek stated it is unsure of the purpose of this proposal and would like DOE to clarify the purpose. (Nortek, No. 58 at p. 7)

Goodman commented that DOE's proposal to use certified rather than tested values conflicts with DOE's acknowledgement that individual unit performance varies from sample to sample due to both individual unit production differences as well as testing differences. Goodman noted that compressor suppliers would only certify the performance of their product to manufacturers to a ±5% tolerance. Goodman commented that from a statistics perspective, it is not correct to suggest that in order to determine the true mean of a population that modified values would be used from actual measurements. Goodman strongly opposed DOE's proposed regulatory language in reference to the assessment and enforcement testing of HVAC products as it pertains to assumed average performance values in the determination of the performance of an individual unit. Goodman strongly suggested that DOE omit the proposed 10 CFR 429.134(g) in its entirety. (Goodman, No. 73 at p. 21)

After reviewing the comments, DOE is adopting modifications from its proposal. For cooling capacity, DOE will use the mean of any DOE test measurements to determine SEER. DOE notes that this adopted modification, by eliminating the comparison to the manufacturer's represented value, addresses JCI's concern about additional reporting burden and Goodman's concern about using modified (certified) values rather than actual measurements. In addition, DOE's modification related to the represented value for capacity, in section III.A.6, addresses Nortek's concern about overrating.

In addition, DOE wishes to clarify that when calculating SEER values, manufacturers must use the tested capacity value, not the certified capacity value.

For the C_D value, in section III.E.11, based on stakeholder comments, DOE

has decided to allow manufacturers to use the default value without testing. The default value is conservative, and DOE believes that manufacturers will only opt to test if it will improve upon the default value for that model. DOE will follow the lead of the manufacturer in determining whether to use the default value or to test a given unit. Therefore, instead of reporting the C_D value used, the manufacturer must report whether the optional tests were conducted to determine the C_D value or whether the default value was used. If manufacturers report using the default value, DOE will also use the default value. If manufacturers conduct optional testing, DOE will also conduct testing to determine C_D. The result for each unit tested (either the tested value or the default value, as selected according to the criteria for the cyclic test in 10 CFR part 430, subpart B, Appendix M, section 3.5e) will be used to determine the applicable standards for purposes of compliance.

B. Alternative Efficiency Determination Methods

1. General Background

For certain consumer products and commercial equipment, DOE's existing regulations allow the use of an alternative efficiency determination method (AEDM) or alternative rating method (ARM), in lieu of actual testing, to estimate the ratings of energy consumption or efficiency of basic models by simulating their energy consumption or efficiency at the test conditions required by the applicable DOE test procedure. The simulation method permitted by DOE for use in rating split-system central air conditioners and heat pumps, in accordance with 10 CFR 429.70(e), is referred to as an ARM. In contrast to an AEDM, an ARM must be approved by DOE prior to its use.

DOE published a Notice of Proposed Rulemaking (AEDM NOPR) in the **Federal Register** on May 31, 2012. 77 FR 32038. In the AEDM NOPR, DOE proposed the elimination of ARMs, and the expansion of AEDM applicability to those products for which DOE allowed the use of an ARM (*i.e.*, split-system central air conditioners and heat pumps). 77 FR at 32055. Furthermore, DOE proposed a number of requirements that manufacturers must meet in order to use an AEDM, as well as a method that DOE would employ to determine if an AEDM was used appropriately along with specific consequences for misuse of an AEDM. 77 FR at 32055–56. DOE subsequently published a final rule, related to commercial HVAC equipment only, on December 31, 2013 (78 FR 79579).

In the November 2015 SNOPR, DOE proposed modifications to the central air conditioner and heat pump AEDM requirements that were proposed in the AEDM NOPR. 80 FR 69278, 69292 (Nov. 9, 2015). In response to DOE's proposal, AHRI, Nortek, and Ingersoll Rand recommended that DOE align the CAC/HP AEDM proposal with commercial equipment AEDM provisions because the commercial and residential technologies, testing methods, and simulation approaches were nearly identical. (AHRI, No. 70 at p. 9; Nortek, No. 58 at p. 5; Ingersoll Rand, No. 65 at p. 11)

In response to that comment, DOE notes that its proposal was based off the commercial equipment AEDM provisions with slight modifications appropriate to the residential product, and as such declines to make the AEDM provisions identical to those for commercial equipment. However, revisions to specific aspects of the proposal based on stakeholder comments are discussed in subsequent sections.

First Co. commented that the DOE's proposed modifications in the November 2015 SNOPR require manufacturers to develop an AEDM for heat pumps. First Co. noted that any AEDMs used by an ICM to rate systems would require coefficient data from the OUM, which is not required to be publicly disclosed and which is not currently available to ICMs. First Co. commented that this issue must be addressed in the rule. (First Co., No. 56 at p. 1)

In response to First Co.'s comment, DOE notes that its proposal in the November 2015 SNOPR did not require use of an AEDM. 80 FR 69278, 69292 (Nov. 9, 2015). Manufacturers may choose to test all individual combinations within a basic model rather than applying an AEDM. Therefore, DOE has not made any changes to its proposal in response to First Co.'s concerns.

AHRI, ADP, Mortex, and Lennox commented that, for ICMs, certified ratings must be less than or equal to AEDM output. (AHRI, No. 70 at p. 5–6; ADP, No. 59 at p. 2–3; Mortex, No. 71 at p. 4–6; Lennox, No. 61 at p. 5)

In response, DOE notes that in 10 CFR 429.16, DOE adopted the requirement that represented values of efficiency must be less than or equal to the output of the AEDM, while represented values of power must be greater than or equal to the output of the AEDM. In addition, under 10 CFR 429.70(a), represented values must never be ''better'' (overrate efficiency or underrate consumption) than the output of the AEDM. These requirements apply to all manufacturers, not just ICMs.

2. Terminology

In the AEDM NOPR, DOE proposed to eliminate the term ''alternate rating method'' (ARM) and instead use the term ''alternative efficiency determination method'' (AEDM) to refer to any modeling technique used to rate and certify covered products. 77 FR 32038, 32040 (May 31, 2012). In the November 2015 SNOPR, DOE continued to propose the use of one term, AEDM, to refer to all modeling techniques used to develop certified ratings of covered products. 80 FR 69278, 69293 (Nov. 9, 2015).

Lennox, Goodman, Ingersoll Rand, and AHRI supported DOE's proposal to eliminate the term ''ARM'' and instead use the term ''AEDM.'' (Lennox, No. 61 at p. 7; Goodman, No. 73 at p. 7; Ingersoll Rand, No. 65 at p. 11; AHRI, No. 70 at p. 9) There, DOE has eliminated the term ''ARM'' in this final rule, using only ''AEDM.''

3. Elimination of the Pre-Approval Requirement

In the November 2015 SNOPR, DOE proposed to eliminate the pre-approval process for ARMs for split-system central air conditioners and heat pumps. In lieu of this, DOE also proposed that manufacturers may only apply an AEDM if it (1) is derived from a mathematical model that estimates performance as measured by the applicable DOE test procedure; and (2) has been validated with individual combinations that meet current Federal energy conservation standards (as discussed in the next section). Furthermore, DOE proposed records retention requirements and additional manufacturer requirements to permit DOE to audit AEDMs through simulations, review of data and analyses, and/or certification testing. 80 FR 69278, 69294 (Nov. 9, 2015).

Lennox agreed that elimination of the pre-approval for AEDMs could reduce time to market, facilitate innovation, and eliminate the time required to complete the approval process. (Lennox, No. 61 at p. 7) In this final rule, DOE has eliminated the pre-approval requirement as proposed in the November 2015 SNOPR.

4. AEDM Validation

a. Outdoor Unit Manufacturers

In the November 2015 SNOPR, DOE noted that in its proposed revisions to the determination of certified ratings for central air conditioners and heat pumps,

manufacturers must test each basic model. Specifically for split-system air conditioners and heat pumps, OUMs must test each model of outdoor unit with at least one model of indoor unit (highest sales volume). Manufacturers would only be able to use AEDMs for other individual combinations within the same basic model—in other words, other combinations of models of indoor units with the same model of outdoor unit. In the November 2015 SNOPR, DOE did not seek to require additional testing to validate an AEDM beyond what is proposed under 10 CFR 429.16(a)(1)(ii). 80 FR 69278, 69294 (Nov. 9, 2015).

DOE also proposed in the November 2015 SNOPR to adopt test requirements similar to those used for AEDM validation for commercial HVAC and water heating equipment, as published in the AEDM final rule 78 FR 79579, 79584 (Dec. 31, 2013). Specifically, DOE proposed that (1) for energy-efficiency metrics, the predicted efficiency using the AEDM may not be more than 3 percent greater than that determined through testing; (2) for energy consumption metrics, the predicted efficiency using the AEDM may not be more than 3 percent less than that determined through testing; and (3) the predicted efficiency or consumption for each individual combination calculated using the AEDM must comply with the applicable Federal energy conservation standard. Furthermore, the test results used to validate the AEDM must meet or exceed the applicable Federal standards, and the test must have been performed in accordance with the applicable DOE test procedure. If DOE has ordered the use of an alternative test method for a particular basic model through the issuance of a waiver, that alternative test method should apply in lieu of the DOE test procedure. 80 FR 69278, 69296 (Nov. 9, 2015).

In the November 2015 SNOPR, DOE proposed a validation tolerance of 3 percent for AEDMs because the variability in a manufacturer's lab and within a basic model should be more limited than lab-to-lab variability. DOE proposed tolerances for verification testing of 5 percent to account for added lab-to-lab variability. 80 FR 69278, 69296 (Nov. 9, 2015).

ADP, Lennox, UTC/Carrier, Rheem, and Unico agreed with DOE's proposal to not require additional testing to validate an AEDM beyond the testing required under 429.16(a)(2)(ii) for split-system air conditioners and heat pumps where manufacturers must test each basic model—that is, each model of outdoor unit with at least one model of HSV indoor unit. (ADP, No. 59 at p. 7; Lennox, No. 61 at p. 15; UTC/Carrier, No. 62 at p. 8; Rheem, No. 69 at p. 8; Unico, No. 63 at p. 6)

Unico commented that single-split systems manufactured and rated by an OUM should continue to validate their AEDM using the HSVC measured results. (Unico, No. 63 at p. 6) The California IOUs commented that it is critical that an AEDM be validated fully and in a manner that allows DOE to use lab-testing data to disallow an AEDM if it is inaccurate. (California IOUs, No. 67 at p. 4)

Lennox, JCI, AHRI, First Co., Ingersoll Rand, UTC/Carrier, Rheem, and Nortek recommended that DOE align the CAC/HP AEDM validation tolerance proposal with commercial equipment AEDM provisions of 5 percent. (Lennox, No. 61 at p. 8; JCI, No. 66 at pp. 3–4; AHRI, No. 70 at p. 9; First Co., No. 56 at p. 2; Ingersoll Rand, No. 65 at p. 11; UTC/Carrier, No. 62 at p. 8; Rheem, No. 69 at p. 2; Nortek, No. 58 at p. 5) AHRI, Lennox, JCI, and Nortek further commented that lab variability is an inherent part of the testing process regardless of whether all testing is conducted in a manufacturer's lab or lab-to-lab. They asserted that the fundamental issue is that HVAC equipment relies on accurate air property measurements (wet bulb/dew point) and the variability of the test alone is greater than five percent. (AHRI, No. 70 at p. 9; Nortek, No. 58 at p. 5; JCI, No. 66 at pp. 3–4; Lennox, No. 61 at p. 8) AHRI and Nortek also commented that it is crucial that manufacturers be permitted to apply the AEDM across basic models in order to align the CAC/HP AEDM validation tolerance with the commercial equipment AEDM provisions. (AHRI, No. 70 at p. 9; Nortek, No. 58 at p. 5)

Given the support in the comments related to AEDM validation for OUMs, DOE maintains its proposal to not require any additional testing to validate an AEDM beyond that required for certification. DOE notes that while the proposal applied to split systems only, in this final rule, it applies to single-package systems as well. After reviewing the comments, DOE has adopted a validation tolerance of 4% rather than the proposed 3%. DOE notes that manufacturers did not provide evidence of the comparison of within-lab variability to lab-to-lab variability nor did they request a higher verification tolerance, indicating that a 5% tolerance appropriately captures lab-to-lab variability. In addition, DOE notes that in its own enforcement testing, it obtains results within 3%. For these reasons, DOE believes that a validation tolerance of 4% balances the manufacturers' concerns regarding within-lab variability with the understanding that such variability is by nature less than lab-to-lab variability and with DOE's own experience with such testing variability. In response to AHRI and Nortek's additional comment, while at least one individual model or combination within each basic model must be tested, DOE did not propose that AEDMs be specific to basic models; they can be applied across basic models.

b. Independent Coil Manufacturers

In the November 2015 SNOPR, DOE noted that in its proposed revisions to the determination of certified ratings for central air conditioners and heat pumps, ICMs must test each model of indoor unit with at least one model of outdoor unit (lowest SEER). Manufacturers would only be able to use AEDMs for other individual combinations within the same basic model. Additionally, DOE did not require additional testing to validate an AEDM beyond that proposed to be required to determine the certified ratings. 80 FR 69278, 69294 (Nov. 9, 2015). DOE also proposed the same additional test requirements for ICMs as for OUMs, as discussed in the previous section. 80 FR 69278, 69296 (Nov. 9, 2015).

Rheem commented that ICMs should validate their AEDMs in the same manner as an OUM. Rheem agreed that ICM ratings would improve when indoor units are tested with outdoor units. Rheem further commented that ICM ratings would also improve when a particular indoor coil is tested with multiple outdoor units of different capacities and that the process should properly consider what effects refrigerant mass flow variations across tonnages have on the performance of a single indoor unit. (Rheem, No. 69 at p. 8) UTC/Carrier also supported DOE's proposal and appreciates DOE for closing what it perceived as a loophole in the current regulations and requiring ICMs to test in a similar fashion to OUMs. (UTC/Carrier, No. 62 at p. 9)

On the other hand, Unico commented that DOE should replace the term ''basic model'' with ''Similarity Group,'' essentially requiring AEDM validation based on the testing requirements for a Similarity Group. (Unico, No. 63 at p. 6) As discussed in section III.A.3.d, AHRI, ADP, Mortex, and Lennox recommended that, to validate an AEDM, an ICM (1) test and rate at least one combination per Similarity Group with an outdoor unit with the lowest SEER that complies with standard; (2) perform at least one full-system test per Similarity Group; (3) if rating HP combinations, test one-third of

Similarity Groups with HP systems in both heating and cooling modes; and (4) if an ICM has only one Similarity Group, the manufacturer must test a minimum of two combinations to validate the AEDM. (AHRI, No. 70 at p. 5–6; ADP, No. 59 at p. 2–3; Mortex, No. 71 at p. 4–6; Lennox, No. 61 at p. 5)

AHRI, ADP, Mortex, and Lennox suggested that for ICMs to validate an AEDM, test results should be required to be more than five percent below output from the AEDM. The commenters noted that DOE has proposed three percent on the supposition that a manufacturer's lab will have less variation, but that many ICMs do not have labs and will rely on external labs for testing and that there is no basis to suggest that the testing variation will be significantly different between testing commercial and consumer products. (AHRI, No. 70 at p. 5–6; ADP, No. 59 at p. 2–3; Mortex, No. 71 at p. 4–6; Lennox, No. 61 at p. 5)

AHRI, ADP, Mortex, and Lennox also suggested that ICMs only be permitted to rate basic models within Similarity Groups validated by a tested combination. (AHRI, No. 70 at p. 5–6; ADP, No. 59 at p. 2–3; Mortex, No. 71 at p. 4–6; Lennox, No. 61 at p. 5)

As discussed in section III.A.3.d, DOE is adopting the suggested Similarity Group requirements as the basic model definition for ICMs and is requiring testing of one combination per basic model (with the exception of heat pumps) according to the sampling plan in 429.16. With these changes, DOE believes that the testing requirements for certification remain sufficient for validating an AEDM. In addition, DOE believes that the additional requirements on test data used for validation address AHRI's concern regarding a need for additional testing for ICMs with only a single Similarity Group. Therefore DOE is not requiring ICMs to conduct any additional testing for AEDM validation beyond that required for certification.

Furthermore, after reviewing these comments, DOE has adopted a validation tolerance of four percent rather than the proposed 3 percent, for ICMs as well as OUMs.

In response to AHRI, ADP, Mortex, and Lennox, DOE notes that the request that ICMs only be permitted to rate basic models within Similarity Groups validated by a tested combination is consistent with its adopted requirements regarding use and validation of AEDMs, although in the adopted framework, manufacturers may only use AEDMs to rate individual combinations within basic models validated by a tested combination.

5. AEDM Verification Testing

DOE may randomly select and test a single unit of a basic model pursuant to 10 CFR 429.104. This authority extends to all DOE covered products, including those certified using an AEDM. In conducting enforcement testing, DOE tests a retail unit or a unit provided by the manufacturer if a retail unit is not available. 10 CFR 429.110(c). A selected unit is tested using the applicable DOE test procedure at an independent, third-party laboratory accredited to the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ''General requirements for the competence of testing and calibration laboratories,'' ISO/IEC 17025:2005E. 10 CFR 429.110(a). DOE may conduct testing at an independent, third-party testing facility or a manufacturer's facility upon DOE's request if the former is not capable of testing such a unit. 10 CFR 429.110(a).

In the November 2015 SNOPR DOE explained that verification testing conducted by DOE is conducted with no communication between the lab and the manufacturer without DOE authorization. 80 FR 69278, 69296 (Nov. 9, 2015). Thus, DOE proposed a method for determining that a combination rated using an AEDM does not meet its certified rating. Specifically, DOE proposed that an individual combination would be considered as having not met its certified rating if, even after applying the five percent tolerance between the test results and the rating as specified in the proposed 10 CFR 429.70(e)(5)(vi), the test results indicate the individual combination being tested is less efficient or consumes more energy than indicated by its certified rating. DOE noted that this approach will not penalize manufacturers for applying conservative ratings to their products. That is, if the test results indicate that the individual combination being tested is *more* efficient or consumes *less* energy than indicated by its certified rating, DOE would consider that individual combination to meet its certified rating. 80 FR 69278, 69296 (Nov. 9, 2015).

In the November 2015 SNOPR, DOE also proposed providing manufacturers with a test report that includes a description of test set-up, test conditions, and test results when an individual combination rated using an AEDM fails to meet the certified rating. Under this proposal, DOE would also provide the manufacturer with an opportunity to respond to the lab report by presenting all claims regarding testing validity, and if the manufacturer was not on-site for initial set-up, to purchase an additional unit from retail to test following the requirements in 429.110(a)(3). Under the proposed procedure, DOE would consider any response offered by the manufacturer within a designated time frame before deciding upon the validity of the test results. Only after considering the manufacturer's response and determining it to be unsatisfactory would DOE declare the manufacturer's rating for the basic model invalid and require the manufacturer to take subsequent action, as described in section III.B.6. 80 FR 69278, 69297 (Nov. 9, 2015).

AHRI and Nortek commented that DOE's proposal was unclear regarding the difference between AEDM validation testing and verification testing. (AHRI, No. 70 at p. 9; Nortek, No. 58 at p. 5) In response, DOE notes that manufacturers must conduct validation testing in order to use an AEDM to determine represented values and to certify compliance to DOE. DOE may conduct AEDM verification testing to verify the validity of an AEDM.

ADP, Lennox, UTC/Carrier, and Unico agreed with DOE's proposal that manufacturers should not be penalized for being conservative in their ratings for any of the metrics. They stated that, given the testing uncertainties, manufacturing variation, etc., manufacturers need to be conservative to ensure their product performs at the rated level. (ADP, No. 59 at p. 8; Lennox, No. 61 at p. 15; UTC/Carrier, No. 62 at p. 9; Unico, No. 63 at p. 7) Rheem also agreed with the proposal to allow conservative ratings. (Rheem, No. 69 at p. 9)

JCI and Lennox commented that there appears to be a typographical error on (5) AEDM Verification Testing. (v) Tolerance. The text shows ''For efficiency metrics, the result from a DOE verification test must be greater than or equal to 1.05 multiplied by the certified rating.'' JCI and Lennox believe the language should read: ''must be greater than or equal to 0.95 multiplied by the certified rating''. (JCI, No. 66 at p. 3; Lennox, No. 61 at p. 15)

Given the agreement of the commenters, DOE finalizes its proposed five percent tolerance in verifying an AEDM's performance and allowance for manufacturers to make conservative representations in this final rule. In response to JCI and Lennox's comments, DOE acknowledges that the November 2015 SNOPR included a typographical error in the tolerances, which has been corrected in this final rule. DOE did not receive comments on other aspects of its

AEDM verification testing proposals and adopts them as proposed in the SNOPR.

6. Failure To Meet Certified Represented Values

In the November 2015 SNOPR DOE proposed that manufacturers need not re-validate the AEDM in response to the first determination of an invalid rating for models certified with that AEDM. In such cases, the manufacturer must conduct additional testing and re-rate and re-certify the individual combinations within the basic model that were improperly rated using the AEDM. 80 FR 69278, 69297 (Nov. 9, 2015).

DOE also proposed that if DOE has determined that a manufacturer made invalid ratings on individual combinations within two or more basic models rated using the manufacturer's AEDM within a 24 month period, the manufacturer must test the least efficient and most efficient combination within each basic model in addition to the combination specified in 429.16(a)(1)(ii). The twenty-four month period begins with a DOE determination that a rating is invalid through the process outlined above. If DOE has determined that a manufacturer made invalid ratings on more than four basic models rated using the manufacturer's AEDM within a 24-month period, the manufacturer may no longer use an AEDM. 80 FR 69278, 69297 (Nov. 9, 2015).

DOE also proposed additional requirements for manufacturers to regain the privilege of using an AEDM, including identifying the cause(s) for failure, taking corrective action, performing six new tests per basic model, and obtaining DOE authorization. 80 FR 69278, 69297 (Nov. 9, 2015).

DOE created its proposal under the expectation that each manufacturer will use only a single AEDM for all central air conditioner and central air conditioning heat pumps. Several stakeholders responded to DOE's question on whether manufactures typically apply more than one AEDM, and if they do, then what the differences are between such AEDMs.

ADP commented that they use one AEDM. (ADP, No. 59 at p. 8) Unico commented that a single AEDM may incorporate several calculation methods, but that the AEDM should be designed to choose the most accurate calculation method and is still one AEDM. (Unico, No. 63 at p. 7)

Lennox commented that while the concept of an AEDM's function is the same, different AEDMs may be optimized for application, ease of use, outputs or integration into other business processes. Lennox recommended that AEDMs not be restricted to a singular application. (Lennox, No. 61 at p. 15) UTC/Carrier suggested that multiple AEDMs could be applied for different products, such as packaged systems versus splits and variable speed versus single-stage. UTC/Carrier argued that a dedicated AEDM would more accurately reflect product performance for consumer benefit (UTC/Carrier No. 62 at p. 9) JCI commented that they would likely utilize one AEDM for split AC units, one for split HP units, and possibly one for single-package units, with a possible additional one a two stage product and another for multistage product. JCI stated the primary differences are the additional simulation conditions and required additional input. (JCI, No. 66 at p. 16) Rheem commented that manufacturers may choose to have multiple AEDMs based on design technologies to ensure rating accuracy for each technology, *i.e.*, micro-channel vs. fin and tube performance modeling. (Rheem, No. 69 at p. 9)

After reviewing the comments, DOE acknowledges that some manufacturers may have more than one AEDM but will likely have fewer than five. DOE believes that its proposal is still valid under these circumstances and has adopted it as proposed. DOE has adopted a requirement for manufacturers to provide a ''name'' for the AEDM used to rate each individual model or combination, although for some manufacturers it may be the same for all. If DOE finds that there is a proliferation of AEDMs and that DOE's requirements for re-validation, re-determination of represented values, and/or re-certification following the failure of a model to meet its certified represented value are no longer sufficient to ensure that represented values generated with AEDMs are reliable, DOE may revisit these requirements.

AHRI and Nortek disagreed with the proposal to invalidate an AEDM after four failures within 24 months and recommended that DOE implement an option to ''save'' the HSVC and remaining basic model ratings, similar to the provisions within the AHRI Certification Program. (AHRI, No. 70 at p. 9; Nortek, No. 58 at p. 6) Ingersoll Rand recommended that DOE adopt the AHRI proposal for additional testing should there be ''excessive'' failures of AEDM rated products. (Ingersoll Rand, No. 65 at p. 11) JCI commented that it appears that if a basic model is deemed invalid that all mix match ratings associated with that basic outdoor model would be made invalid and be required to be recertified. JCI believes this is very punitive and does not take into account that the invalid ratings may be due to other factors. JCI also agreed with other commenters that there should be a method to ''save'' all of the other mix match ratings associated with that basic outdoor model. (JCI, No. 66 at p. 4)

UTC/Carrier recommended that the number of failures in 24 month period before the AEDM is invalidated should scale to the number of basic models for that particular manufacturer. (UTC/Carrier, No. 62 at p. 8)

Goodman expressed concern over the result of an initial assessment test in which the basic model being tested failed to achieve its ratings. Goodman commented that if the manufacturer is permitted to review the setup of test arrangement before the test is finished, the cause of failure could be eliminated. (Goodman, No. 73 at p. 7)

In response to AHRI, Nortek, and JCI, DOE's proposal does permit a manufacturer to ''save'' all represented values with minimal effort at the first failure and with additional testing at the second, third and fourth failures. If, after all of that additional testing, the AEDM is still not accurate, DOE is unsure what would be ''saved''. DOE notes that the tested combination of each basic model would not have been rated using the AEDM and thus would be unaffected by a failure of the AEDM. In response to Ingersoll Rand, DOE views five failures in two years as excessive, as DOE has already provided a 5% tolerance. In response to UTC/Carrier, DOE disagrees that the number of failures should scale to the number of basic models. DOE believes that if a manufacturer has five basic models that test outside of the 5% tolerance, especially following feedback from the four previous failures, that there must be a significant problem with the AEDM. In response to Goodman, DOE notes that although it has not provided an allowance for a manufacturer to review the test set up prior to testing, DOE will provide the manufacturer with documentation related to the test set up and allows the manufacturer to present claims regarding the validity. DOE believes this accomplishes the same result.

Unico commented that for ICM ratings, if a rating is invalid, if the same basic model was tested and passed, only the system tested that failed is re-rated. For an ICM, the same failure is not considered a failure of the AEDM unless the outdoor unit has been tested and shown to meet the OUM rating. Unico argued that, from an engineering view,

the calculation method should only be changed if the measured data is [in]consistent with the AEDM input. Unico also expressed the view that, since the ICM does not manufacture the outdoor unit, the ICM should not be held responsible for the OUM information. According to Unico, ICM ratings are likely to be doubly conservative if one considers that the OUM ratings are conservative and this is added to the conservative ICM rating. Unico also urged DOE to consider that the ratings are based on tests of the outdoor unit (OUM basic model testing) and of the indoor unit (ICM Similarity Group testing), asserting that this is more testing than the OUM product alone. (Unico, No. 63 at p. 4)

In response to Unico, DOE does not agree that ICMs should have different consequences for failures than OUMs. All manufacturers use AEDMs at their own risk and are responsible for ensuring the accuracy of the AEDM, including the accuracy of the testing used to validate the AEDM.

7. Action Following a Determination of Noncompliance

If an individual model or combination is determined to be noncompliant, then all other individual models or combinations within that basic model are considered noncompliant. DOE's proposal in the November 2015 SNOPR with respect to AEDMs did not include a provision that other basic models rated with the AEDM would be considered noncompliant. However, DOE noted that an AEDM must be validated using test data for individual combinations that meet the current Federal energy conservation standards. Therefore, if a noncompliant model was used for validation of an AEDM, a manufacturer must re-validate the AEDM with test data for a compliant basic model in order to continue using the AEDM. The requirements for additional testing based on invalid ratings, as discussed in the previous sections, may also apply. 80 FR 69278, 69298 (Nov. 9, 2015).

DOE notes that it did not receive comments related to this discussion in the November 2015 SNOPR.

8. AEDM for Off Mode

In the November 2015 SNOPR, DOE listed several requirements a manufacturer must meet to use an AEDM in certifying ratings, including $P_{W,OFF}$. 80 FR 69278, 69339 (Nov. 9, 2015).

AHRI, Ingersoll Rand, Nortek, Lennox, and JCI recommended that use of an AEDM be permitted to generate ratings for off mode power across units of similar construction. (AHRI, No. 70 at p. 9; Ingersoll Rand, No. 65 at p. 4; Nortek, No. 58 at p. 5; Lennox, No. 61 at p. 7; JCI, No. 66 at p. 9) Additionally, Lennox recommended that use of an AEDM be permitted to generate ratings for off mode power for units that use the same off mode components (Lennox, No. 61 at p. 7), while AHRI and Nortek recommended that an AEDM be permitted to be used to generate ratings across tonnages. (AHRI, No. 70 at p. 9; Nortek, No. 58 at p. 5) Rheem recommended that manufacturers be permitted to use an AEDM to generate ratings for off mode power across similar control systems that would consume the same off-mode power. Rheem also expressed the view that the AEDM should be validated based on testing of a single model with the same control system. Rheem further commented that manufacturers should be able to rate the off mode power consumption of both single-package and split systems with varying compressors, coils, and auxiliary refrigeration system components if the models are in the same basic model or have common control and motor types. (Rheem, No. 69 at p. 3, 7)

DOE agrees with stakeholders that, for units with a similar pairing of compressor, crankcase heater and common control, an AEDM is capable of providing an off mode represented value without the manufacturer needing to test each basic model. In response to the commenters' request, DOE has eliminated the requirement to test each basic model for off-mode power. Instead, at a minimum, among models with similar off-mode construction (even spanning different basic models, a manufacturer must test at least one individual model or combination for off-mode power, and may use an AEDM for the rest. DOE notes that in all cases, the AEDM-generated represented value may be subject to verification testing, and thus the responsibility is on the manufacturer to determine which model(s) or combination(s) should be tested for off-mode as part of AEDM validation. DOE also notes that an AEDM may be used for off-mode power for multi-split, multi-circuit, and multi-head mini-split systems, even though an AEDM may not be used for the efficiency metrics.

C. Waiver Procedures

In the November 2015 SNOPR, DOE stated that a total of four waivers (and one interim waiver) for central air conditioner and heat pump products would terminate 180 days after the publication of this final rule notice in the **Federal Register**. 80 FR 69278, 69298–300 (Nov. 9, 2015). The waivers to be terminated are listed in Table III.4.

In the June 2010 NOPR, DOE proposed a test method for testing Triple-Capacity Northern Heat Pumps which would replace the waiver test procedure granted to Hallowell International (see 75 FR 6013 (Feb. 5, 2010)) for testing its line of boosted compression heat pumps. 75 FR at 31238 (June 2, 2010). The November 2015 SNOPR reproposed the same procedure initially proposed in the June 2010 NOPR. 80 FR 69278, 69298 (Nov. 9, 2015). DOE did not receive comments regarding this test procedure and is therefore finalizing it in this final rule. The Hallowell waiver will terminate on December 5, 2016.

DOE received comments on the proposed test procedure revisions related to waivers for Multi-Zone Unitary Small Air Conditioners and Heat Pumps from ECR International (ECR) and Multi-blower Air-Conditioning and Heating Equipment from Cascade Group. Additionally, DOE has further reviewed the proposed approach for the waivers for air-to-water heat pumps granted to Daikin for their Altherma heat pumps. These waivers and associated comments are discussed in the following sub-sections.

TABLE III.4—WAIVERS TO BE TERMINATED

Scope	Decision & Order
ECR International, Inc., Multi-zone Unitary Small Air Conditioners and Heat Pumps	(Petition & Interim Waiver, 78 FR 47681, 8/6/2013).
Daikin AC (Americas), Inc., Heat Pump & Water Heater Combination	76 FR 11438, 3/2/2011.
Daikin AC (Americas), Inc., Heat Pump & Water Heater Combination	75 FR 34731, 6/18/2010.
Hallowell International, Triple-Capacity Northern Heat Pumps	75 FR 6013, 2/5/2010.
Cascade Group, LLC, Multi-blower Air-Conditioning and Heating Equipment	73 FR 50787, 8/28/2008.

1. Air-to-Water Heat Pumps and Air Conditioners

In the November 2015 SNOPR, DOE had determined that the Daikin Altherma air-to-water heat pumps with integrated domestic water heating rely exclusively on refrigerant-to-water heat exchange on the indoor side, and thus would not be required to be tested and rated for the purpose of compliance with DOE standards for central air conditioners or heat pumps. 80 FR 69278, 69298 (Nov. 9, 2015). DOE received no comment on these waivers.

DOE further considered the regulatory status of air-to-water heat pumps and notes that EPCA defines Central Air Conditioner as ''a product, other than a packaged terminal air conditioner, which—(A) is powered by single phase electric current; (B) is air-cooled; (C) is rated below 65,000 Btu per hour; (D) is not contained within the same cabinet as a furnace the rated capacity of which is above 225,000 Btu per hour; and (E) is a heat pump or a cooling only unit.'' (42 U.S.C. 6291(21)) The definition does not exclude products that transfer cooling or heating to a water loop on the indoor side. Hence, DOE concludes that these products are covered under regulations for CAC/HP. DOE does agree that the existing test procedures for CAC/HP do not fully address test methods for air-to-water systems. Specifically, they do not provide instructions regarding how to set up the water loop in the test, nor whether any power input associated with the water-based thermal distribution system should be incorporated into the efficiency metrics.

The Daikin waivers called for testing of the Altherma air-to-water heat pumps using European standard EN 14511 to determine EER and COP, and that these measurements are the only allowed representations of the performance of these products. (See for example 75 FR 34731, 34733 (June 18, 2010).) DOE now considers these waivers to be invalid, because they did not provide a method to determine SEER and HSPF, the metrics that must be reported to DOE to certify compliance with the applicable efficiency standards. Hence, these waivers are considered to be terminated, effective immediately. DOE will work with manufacturers of air-to-water heat pumps and air-to-water air conditioners as needed to help develop test procedures for providing SEER, HSPF, and average off-mode power represented values that may become the basis of replacement waivers.

2. Clarification of the Test Procedure Pertaining to Multi-Circuit Products

The ECR waiver for Multi-zone Unitary Small Air Conditioners and Heat Pumps concerns a split system that has one outdoor unit with multiple circuits. In the November 2015 SNOPR, DOE proposed to define such a product as a multiple-circuit (or multi-circuit) system (see Section 1.2 in Appendix M). The November 2015 SNOPR also proposed to provide a test procedure for multi-circuit products using a common duct approach for the indoor air flow measurement, similar to the approach used for multi-split units (see Section 2.4.1.b in Appendix M), thus allowing a single test for each operating condition. 80 FR 69278, 69299 (Nov. 9, 2015).

In their comments, AHRI and Nortek stated that multi-circuit products are different than multi-split systems. According to AHRI and Nortek, the outdoor unit has multiple separate circuits, each serving a separate indoor unit. They commented that multi-circuit products should be considered as multiple units whose outdoor portions are all contained within one outdoor unit cabinet. (AHRI, No. 70 at p. 18; Nortek, No. 58 at p. 14–15). AHRI and Nortek also commented that utilizing a common duct at zero static pressure with indoor sections of differing airflows will load the indoor sections unequally and may not yield the same air flows as when individually ducted. AHRI and Nortek commented that without each circuit having individual performance data collected, the test would not reflect the true performance of the system. Id.

Rheem stated that each circuit should be tested individually and the efficiency certified separately but did not elaborate on this comment. (Rheem, No. 69 at p. 9)

Lennox supported DOE's proposal of the common duct approach for multi-circuit products. (Lennox, No. 61 at p. 16)

DOE believes that a multi-circuit system is a single unit rather than multiple units, one for each circuit, as suggested by Rheem. All of the individual circuits within the multi-circuit system share the same outdoor coil and fan(s) and therefore are affected by the operation of the other circuits. The outdoor unit containing the multiple circuits is shipped as a single unit, not as separate units. Therefore, DOE adopts its November 2015 SNOPR proposal to require manufacturers to certify the multi-circuit system as a single system, which is consistent with the existing ECR waiver.

DOE noted in the November 2015 SNOPR that the common duct testing approach has been adopted by industry standards and is an accepted method for testing systems, such as multi-split systems, having multiple indoor units. 80 FR 69299 (Nov. 9, 2015). In fact, the indoor units of multi-split systems do not all have the same capacity or air flow rate. Hence, it is not clear why the common-duct approach is suitable for multi-split systems but would not be suitable for multi-circuit systems. In this final rule, DOE adopts the common-duct testing approach proposed in the November 2015 SNOPR for multi-circuit systems. However, considering that there might be manufacturers and/or test laboratories that wish to use the approach of the waiver, in which individual measurements are made for each indoor section, DOE has modified the provisions in section 2.4.1.b for multi-circuit systems to allow use of either the common-duct approach or separate air flow measurement for each indoor unit of the multi-circuit system. Both approaches should yield the same performance since all the indoor sections are subject to the same external static pressure.

Because DOE has adopted test procedure amendments that allow multi-circuit systems to be tested without a waiver, testing in accordance with the ECR waiver may not be used for representations after 180 days following publication of this final rule.

3. Clarification of the Test Procedure Pertaining to Multi-Blower Products

The Cascade Group waiver concerns multi-blower products. The test procedure amendments, as proposed in the June 2010 NOPR enable testing of multi-blower products. 75 FR 31237 (June 2, 2010). In the November 2015 SNOPR, DOE proposed amending Appendix M to Subpart B of 10 CFR part 430 with language in sections 3.1.4.1.1d and 3.1.4.2e to provide detailed instructions on obtaining the Cooling full-load air volume rate and cooling minimum air volume rate. 80 FR 69278, 69300 (Nov. 9, 2015).

In response to DOE's November 2015 SNOPR, Rheem stated that, if there are options for obtaining the maximum or minimum airflow configuration, the option for each with the highest energy consumption should be tested. (Rheem, No. 69 at p. 9)

DOE notes that in tests for products other than multi-blower systems, the test procedures do not require use of the most energy-consumptive control setting options to achieve the specified air flow rates. Hence, DOE declines to require this approach for multi-blower

products. Therefore, DOE adopts the test approach initially proposed in the June 2010 NOPR and modified in the November 2015 SNOPR.

Because DOE has adopted test procedure amendments that allow multi-blower systems to be tested without a waiver, testing in accordance with the Cascade Group waiver may not be used for representations after 180 days following publication of this final rule.

D. Measurement of Off Mode Power Consumption

In the June 2010 NOPR, DOE proposed a first draft of testing procedures and calculations for off mode power consumption. 75 FR 31223, 31238 (June 2, 2010). In the following April 2011 SNOPR, DOE proposed a second draft, revising said testing procedures and calculations based on stakeholder-identified issues and changes to the test procedure proposals in the 2010 June NOPR and on DOE-conducted laboratory testing. 76 FR 18105, 18111 (April 1, 2011). In the October 2011 SNOPR, DOE proposed a third draft, further revising the testing procedures and calculations for off mode power consumption based primarily on stakeholder comments received during the April 2011 SNOPR comment period regarding testing burden on manufacturers. 76 FR 65616, 65618–22 (Oct. 24, 2011). In the November 2015 SNOPR, DOE proposed a fourth draft discussing and revising test settings and the calculation method in response to stakeholders' comments. 76 FR 69278, 69300–05 (Nov. 9, 2015). Based on further comments DOE received in the November 2015 SNOPR comment period, DOE is modifying its approach and is adopting the off mode test procedure.

1. Test Temperatures

In the November 2015 SNOPR, DOE proposed to require manufacturers to include the temperatures at which the crankcase heater is designed to turn on and turn off, if applicable, in their certification reports. 80 FR 69278, 69301 (Nov. 9, 2015). DOE proposed to replace the ''shoulder season'' off mode test (P1) at 82 °F with a test at 72±2 °F and replace the ''heating season'' off mode test (P2) at 57 °F with a test at a temperature which is 5±2 °F below a manufacturer-specified turn-on temperature. *Id.*

In response to the October 2011 SNOPR, the California IOUs recommended that P1 be measured at a temperature that is 3–5 °F above the manufacturer's reported ''off'' set point. (California IOUs, No. 33 at p. 2) DOE requested comment on this recommendation in the December 2011 extension notice. 76 FR 79135 (Dec. 21, 2011). AHRI responded to the California IOUs' recommendation, indicating that the first test should instead be conducted at 72 °F to verify whether the crankcase heater is on, and suggesting that 72 °F is more appropriate than 82 °F because 72 °F is ''the top of the shoulder season.'' (AHRI, No. 41 at p. 2) In response to the November 2015 SNOPR, Rheem expressed its preference for the shoulder season off mode test to be at 82±2 °F instead of 72±2 °F in order to reduce the test condition transitioning time after the B test. (Rheem, No. 69 at p. 9)

Although DOE acknowledges that there may be added test burden to reduce the temperature in the test room, DOE agrees with AHRI that 72 °F is more representative of conditions during actual use. Accordingly, today's final rule adopts the requirement that this test be conducted at 72±2 °F. There were no comments against the proposal to replace the ''heating season'' off mode test (P2) at 57 °F with a test at a temperature which is 5±2 °F below a manufacturer-specified turn-on temperature. Hence, DOE adopts the proposal in this final rule.

Ingersoll Rand requested an option that off mode tests be allowed to take place in a climate controlled enclosure rather than a psychrometric room. (Ingersoll Rand, No. 65 at p. 4) In considering this suggestion, DOE noticed that, although the proposed test procedure does not specify that off mode tests should be conducted in psychrometric rooms, the proposed procedure requires off mode tests be done after the B, B_1, or B_2 test, thus implying that it be conducted in a psychrometric room. DOE agrees that the off mode test results will not be affected by humidity levels. The proposal of the November 2015 SNOPR involves conducting the off mode test after the B, B_1, or B_2 test, and approaching the target 72 °F test temperature at a rate of change of no more than 20 °F per hour. 80 FR 69278, 69374 (Nov. 9, 2015). The test procedure in this final rule modifies this procedure by allowing the off mode test to be conducted in a temperature-controlled room, but to otherwise maintain the proposed requirements with regard to ambient temperature, *i.e.* starting the test when the ambient temperature is 82 °F (as required for the B, B_1, or B_2 test) and subsequently ramping down the ambient temperature as required by the proposed procedure. The final test procedure also acknowledges the initial intent to conduct the test after the B, B_1, or B_2 test by requiring that the compressor shell temperature be at least 81 °F before starting the ambient-temperature rampdown. This requirement prevents a test lab from moving a test sample from a storage room that might be much colder than 82 °F into the test room and starting the test with a cold compressor.

Lennox suggested that DOE allow manufacturers to simply energizing the crankcase heater for non-variable type heaters to reduce the test burden, so that such units could be tested with no temperature control requirement. (Lennox, No. 61 at p. 16) In considering Lennox's comment, DOE agrees that this option could be adopted for many fixed-power-input crankcase heaters, including those without controls and those controlled by thermostats that measure ambient temperature whose sensing elements are not affected by the heater. However, DOE understands that, if the thermostat's action is affected by the crankcase heater's heat output (*i.e.* if the sensing element is close enough to the heater to be affected by the heat), the unit should be tested with a controlled ambient temperature because in such cases the ambient temperatures at which the thermostat switches the heater on and off would differ from its rated cut-in and cut-out temperatures, due to the warming effect of the heater.

Several comments recommended a third off-mode test at low temperatures. JCI recommended for air conditioners whose crankcase heaters are turned off during winter a third test at 5 °F below the winter cut-off temperature. (JCI, No. 66 at p. 16) The joint NEEA/NPCC comment requested a third test below freezing to establish the slope of a variable power crankcase heating system and to capture the energy use of electric resistance drain pan heaters which could consume considerable energy in off mode for conditions below freezing. (NEEA and NPCC, No. 64 at p. 4) The joint ACEEE/NRDC/ASAP comment made a similar recommendation (ACEEE, NRDC, ASAP, No. 72 at p. 3) As mentioned in the November 2015 SNOPR, the intent of the off mode power consumption value ($P_{W,OFF}$) is that it be a representation of the off mode power consumption for the shoulder and heating seasons, and DOE has not found that the additional accuracy gained from the additional test point merits the additional test burden, as discussed in the November 2015 SNOPR. 80 FR 69278, 69301 (Nov. 9, 2015). As DOE is required to consider test burden in its development of test procedures, DOE is not adopting a third test in this final rule.

2. Calculation and Weighting of P1 and P2

DOE proposed to give equal weighting to *P1* and *P2* for the calculation of the off mode power rating ($P_{W,OFF}$). 76 FR 65616, 65620 (Oct. 24, 2011). (See also 80 FR 69278, 69301 (Nov. 9, 2015)).

The Joint Efficiency Advocates (NEEA and NPCC) strongly urged DOE to adopt a temperature bin-weighting methodology that would include the energy contribution of drain pan heaters and suggested considering the AHRI-proposed bin method. (NEEA and NPCC, No. 64 at p. 5) The Joint Advocates of ACEEE, NRDC and ASAP also recommended the bin method due to their concern that the current averaging method would underestimate the off mode power consumed for units with variable output crankcase heaters. (ACEEE, NRDC and ASAP, No. 72 at p. 3) NEEA and NPCC also commented that with manufacturers providing turn-on and turn-off temperatures for crankcase heaters, it would be easy to construct a bin method calculation. Further, they indicated that DOE has not shown data to justify the selection of a 50–50 weighting of P1 and P2. (NEEA and NPCC, No. 64 at p. 5)

DOE is aware that drain pan heaters may be used in heat pumps that have drain pans to collect defrost melt water. However, heat pumps are not considered to have off-mode hours in sub-freezing winter conditions when drain pan heaters might be required. Their energy use is captured as part of the active-mode heating tests in 17 °F ambient conditions (*e.g.* the H3, $H3_1$, and $H3_2$ tests) that are part of the HSPF determination. To clarify, DOE has added a new section 2.2.f to Appendix M that indicates that such heaters are energized for active-mode testing.

DOE initially proposed to adopt the 50–50 weighting of the off mode in the October 2011 SNOPR 75 FR at 65620 (Oct. 24, 2011). This decision was made in light of disagreement regarding what represents an appropriate shoulder season, concern about regional variation in shoulder season characteristics, and the fact that EPCA did not grant DOE authority to set regional off-mode standards. A 50–50 weighting of P1 and P2 provides a representative national estimate of off mode power input. Depending on the assumptions made regarding the shoulder season, the climate region examined, whether the product is an air conditioner or a heat pump, and the details of the crankcase heater control, the relative representativeness of P1 and P2 may change. In light of this variability and uncertainty, it is not clear that a bin calculation would have more meaning than the 50–50 averaging. Therefore, DOE is adopting the 50–50 weighting as proposed.

There were additional comments concerning the calculation of P1 and P2 for products with variable speed compressors. Nortek, Unico, JCI, Rheem, Goodman and AHRI each provided an estimate of 70 Watts for variable speed products' crankcase heaters and commented that 70 Watts is an accurate average value. They argued that, considering that the standard single-capacity products' crankcase heaters require no more than 40 Watts, the ratio of 70 to 40, which is 1.75, should be a reasonable multiplier. (Nortek, No. 58 at p. 8; Unico, No. 63 at p. 9; JCI, No. 66 at p. 9; Rheem, No. 69 at p. 10; AHRI, No. 70 at p. 11; Goodman, No. 73 at p. 8) Lennox recommended that DOE adopt the same requirement for modulating or variable speed systems as adopted for multiple compressor systems, with a multiplier factor of 2. (Lennox, No. 61 at p. 16)

In contrast, a joint comment from NEEA and NPCC and a comment from the California IOUs disagreed with DOE's proposal to adjust the off-mode measurements for large-capacity, multiple or modulated compressors. NEEA and NPCC argued that appropriately-designed crankcase heaters for large-capacity compressors should pass the off-mode standard and that it is unnecessary to have a multiplier. (NEEA and NPCC, No. 64 at p. 5) The California IOUs commented that off mode power consumption should be on a per-system basis rather than per-compressor. (California IOUs, No. 67 at p. 2–4)

Based on these comments, DOE is adopting 1.75 as the multiplier for modulated compressors (including variable-speed compressors). DOE adopts as the effective multiplier for a compressor system consisting of multiple single-stage compressors a value equal to the number of single-stage compressors. As addressed in the November 2015 SNOPR, DOE believes that large-capacity and multiple-compressor systems require higher wattage crankcase heaters because they are likely to have larger surface area and more thermal mass, including more lubricant. Also, manufacturers have been using higher-wattage crankcase heaters for modulating compressors to address the higher perceived risk associated with oil frothing on restart for these compressors, due to their higher controls complexity. DOE does not have sufficient evidence that larger-capacity, multiple-, or modulating compressor systems can operate safely with the same levels of crankcase heating and hence retains the multiplier for these compressors in the off-mode test. DOE agrees that modulated compressors (including variable speed products) require more crankcase heater power, and selected the 1.75 factor on this basis (this is equal to the typical 70W mentioned above for variable-speed compressors divided by the typical 40W power draw for typical single-stage compressor crankcase heaters).

Although not indicated clearly in the comments, DOE understands ''modulated'' in the comments to refer to any compressor that is not single-capacity. DOE clarifies in this final rule that the 1.75 multiplier applies to the number of compressors that are not single-stage, including two-stage compressors and variable speed compressors. This is less than a factor of 2, which would be the effective adjustment for a two-compressor system, but there is insufficient data showing variable speed products should have the same requirement as multiple compressor systems.

3. Time Delay Credit and Removal of Calculations for Off Mode Energy Consumption and Annual Performance Factor

In the November 2015 SNOPR, DOE proposed to adopt, for crankcase heaters that incorporate a time delay before turning on, a credit that would be proportional to the duration of the delay, as implemented in the calculation of the off mode energy consumption. (The original proposed calculation method for $P_{W,OFF}$ did not include any adjustment associated with the time delay). DOE also proposed, for products in which a time delay relay is installed but the duration of the delay is not specified in the manufacturer's installation instructions shipped with the product or in the certification report, a default period of non-operation of 15 minutes out of every hour, resulting in a 25% savings in shoulder-season off mode energy consumption. DOE notes that the impact on crankcase heater energy use was extended in the proposal to the entire off-mode energy consumption because, for an air conditioner or heat pump with a crankcase heater, most of the off mode energy use is associated with the heater. To reduce potential instances of the misuse of this incentive, DOE also proposed requiring manufacturers to include in certification reports the duration of the crankcase heater time delay for both the shoulder and heating seasons. 80 FR 69278, 69303–04 (Nov. 9, 2015).

DOE received a joint comment from NEEA and NPCC that stated, among other things, that the impact of a time delay in a system is difficult to measure accurately. NEEA and NPCC also expressed the opinion that sometimes the time delay behavior is an artifact of temperature control, because it takes a certain time for the compressor to cool after a run cycle. (NEEA and NPCC, No. 64 at p. 6) The California IOUs recommended care be taken in adopting such a credit, and requested that it be vetted appropriately before being implemented. (California IOUs, No. 67 at p. 5)

Upon further review of the function of the time delay relay and its potential impact on off mode power consumption, DOE concludes that the proposed credit is not consistent with the intent of its off mode definition. A definition for off mode was initially proposed in the July 2010 NOPR. For air conditioners, it was proposed to include, ''all times during the non-cooling season of an air conditioner. This mode includes the 'shoulder seasons' between the cooling and heating seasons when the unit provides no cooling to the building and the entire heating season, when the unit is idle.'' 75 FR at 31249 (June 2, 2010). The definition for off mode season in today's notice is not identical but has essentially the same meaning, for example for an air conditioner, referring to both the shoulder season and the heating season. The shoulder season is defined as the period between the months of the year that require heating or cooling. The off mode season lasts months. Hence, the impact of a crankcase heater time delay of a fraction of an hour, as is typical for such relays, would insignificantly reduce average crankcase heater on-time or energy use.

The time delay credit was proposed in the November 2015 SNOPR to apply only to the off mode energy use calculation, and to the annual performance factor, APF, but not to the off-mode metric $P_{W,OFF}$. DOE does not currently have, and has not proposed to establish, standards or reporting requirements for off mode energy use or annual performance factor, nor are these parameters needed for representations, such as for product labeling. Hence, DOE is not adopting in Appendix M the proposed provisions for calculating off mode energy use, as well as the proposed time delay credit, and has removed the provisions for calculating annual performance factor.

4. Impacts on Product Reliability

Addressing concerns from stakeholders, in the November 2015 SNOPR, DOE stated that it expected that the proposed off mode test method would allow manufacturers to meet the June 2011 off mode standards without compromising the reliability of central air conditioners and heat pumps. DOE requested comments on the issue of compressor reliability as it relates to crankcase heater operation. 80 FR 69278, 69304 (Nov. 9, 2015).

Lennox, JCI, and Rheem expressed concerns that regulating crankcase heater power will have a negative impact on products. (Lennox, No. 61 at p. 17; JCI, No. 66 at p. 17; Rheem, No. 69 at p. 11) NEEA/NPCC strongly agreed with DOE that manufacturers will be able to meet off mode power consumption standards without adverse impact on product reliability. (NEEA/NPCC, No. 64 at p. 7) UTC/Carrier and the California IOUs suggested that DOE should seek comments or obtain information on research conducted by compressor manufacturers or independent entities. (UTC/Carrier, No. 62 at p. 12; California IOUs, No. 67 at p. 5) However, no party provided any data indicating that the proposal would have such an impact. Also, DOE has modified many of the details of the test procedure as requested by stakeholders to address concerns, for example, adjusting the measurement of $P_{W,OFF}$ for modulating- or multiple-compressor systems for consistency with their typically higher crankcase heater wattages. In this final rule, DOE has modified the proposed off mode test procedure consistent with information, provided by stakeholders, that might affect crankcase heater performance as measured by the test procedure such that application of the off mode standard using the final test procedure should have minimal impact on the reliability of CAC/HP systems.

5. Off Mode Power Consumption for Intelligent Compressor Heat Control

In a general response to the off mode test procedure proposed in the November 2015 SNOPR, Ingersoll Rand commented that the proposed off mode test procedure cannot accurately reflect off mode energy consumption for their intelligent crankcase heater control, which cycles the heater to provide the appropriate average heat input. They requested that they be allowed to use an alternative test method for measurement of the heating season off-mode power consumption, P2, for products with this feature. The requested alternative test suggested by Ingersoll Rand would consist of a test period for measurement of input power that includes three complete crankcase heater cycles, or 18 hours, whichever is shorter, rather than the 5-minute test period of the proposed test. Ingersoll Rand provided test data showing typical operation of the crankcase heater. (Ingersoll Rand, No. 65 at p. 14–23) DOE carefully reviewed Ingersoll Rand's data and agrees that longer tests are needed for heaters whose controls cycle or vary crankcase heater power over time. Rather than authorizing an alternative method specific to Ingersoll Rand, the final rule adopts an additional provision in the measurement of heating season off mode power consumption (P2), using the approach suggested by Ingersoll Rand for such controls: three complete heater cycles or 18 hours, whichever is shorter. The final rule also requires that this approach be used for measuring the shoulder season off-mode power consumption, P1, if the heater is energized and cycles or varies input power for that measurement.

6. Off Mode Test Voltage for Dual-Voltage Units

In its comments on the off mode test procedure proposal of the November 2015 SNOPR, Ingersoll Rand stated that the proposal did not specify how to test units with a dual voltage rating. They further recommended that for such systems, the higher voltage should be the test voltage for off mode tests. (Ingersoll Rand, No 65 at p. 4). They also commented that the same tolerances be adopted as are used for performance testing. DOE notes that the current test procedure incorporates by reference section 6.1.3.2 of AHRI 210/240–2008, which provides requirements for setting voltage for testing products with dual nameplate voltages. The standard requires that 230 V be used for 208–230 V dual-voltage units and that testing for all other dual nameplate voltage units be conducted at either the lower of the two voltages or at both voltages. Ingersoll Rand did not provide explanations supporting their suggestion to instead use the higher voltage (Ingersoll Rand, No. 65 at p. 4), and DOE sees no reason to depart from these established requirements for off-mode testing. DOE agrees with the need to specify tolerances, which are discussed in the next section.

7. Off Mode Test Tolerance

DOE recognized that the November 2015 SNOPR did not address all relevant test tolerances for the off mode power consumption test. DOE proposed tolerances for outdoor temperatures in the November 2015 SNOPR, but did not clarify whether test tolerances for power supply voltage for off mode testing should be different than for active mode testing. DOE adopts in this final rule the

same test tolerances used for active mode testing (see, for example, Table 7 in section 3.3 of Appendix M). These tolerances are 2.0 percent as the test operating tolerance and 1.5 percent as the test condition tolerance, both as a percentage of measured voltage.

8. Organization of Off Mode Test Procedure

In addition to revising the proposed off-mode test procedure in response to stakeholder comments, as discussed in previous sections, DOE also modifies the proposed off mode test procedure in this final rule. These modifications do not affect the measurement but should help to ensure consistency between tests conducted in different labs.

First, DOE has provided greater detail regarding test sample set-up and connection of power measurement devices for off-mode testing. This includes provisions for providing power to the control circuit for all kinds of units and specifically addresses the options when testing coil-only units for which a furnace or a modular blower is the designated air mover. (See section 3.13.1.a of Appendix M as finalized in this notice.)

Second, the test procedure now provides greater specification regarding which power inputs are to be included as part of the low voltage power P_x. (See, for example, section 3.13.1.d of Appendix M as finalized.)

Third, the test procedure indicates that for units with time delay relays, the measurement is to be made after the time delay has elapsed.

In addition, DOE notes that in the calculation of off-mode seasonal power consumption in section 4.3, P2 should never equal to zero. As described in the November 2015 SNOPR, DOE intended that the off mode power rating $P_{W,OFF}$ be equal to the arithmetic mean of P1 and P2, without discussion of any special cases in which P2 is equal to zero. 80 FR at 69301 (Nov. 9, 2015). The provisions for calculating $P_{W,OFF}$ for cases in which P2 is equal to zero should not have appeared in the Appendix M regulatory language presented in the notice. Hence this notice shows the intended calculation, that $P_{W,OFF}$ be equal to the average of P1 and P2.

9. Certification

In the November 2015 SNOPR, DOE proposed that manufacturers report off-mode power in their certification reports. 80 FR 69278, 69291 (Nov. 9, 2015). In response, AHRI and Rheem suggested that the off mode ratings should be reported as pass/fail with a 5% tolerance. AHRI did not explicitly clarify what they meant by a 5% tolerance, but DOE assumes this means that the model would rate as ''pass'' even if the measured value (or the average of the values measured for the sample of units) is as much as 5% greater than the standard. AHRI stated that first, it is difficult to accurately measure the power consumption because of the inaccuracies in common measurement devices, and second, because consumers do not compare products using this metric, manufacturers have no incentive to report it. (AHRI No. 70 at p. 11; Rheem No. 69 at p. 3)

DOE requires that manufacturers report the value of all regulated efficiency metrics rather than simply an indication of whether units pass or fail the energy conservation standard. If a manufacturer does not wish to reveal how much lower than the off-mode power consumption standard a model performs, it has the option to rate at the standard level as long as the represented value is consistent with the measurements, sampling plan and represented value requirements in 10 CFR 429. Accordingly, DOE maintains the requirement to report the actual value for off-mode power.

DOE also proposed to require manufacturers to include in the certification reports the temperatures at which the crankcase heater is designed to turn on and turn off for the heating season, if applicable. 80 FR 69278, 69301 (Nov. 9, 2015).

After finalization of the off mode test procedure based on stakeholder comments, DOE recognized that the only product-specific temperature needed to be known to properly conduct the test is the turn-on temperature (*i.e.* the cut-in temperature). This is the temperature below which the thermostat would energize the heater. The heating season off-mode power is measured at an ambient temperature 5 +/- 2 °F below this turn-on temperature. The temperature at which the crankcase heater of an air conditioner is designed to turn off for the heating season (*i.e.* below which the heater would no longer be energized) will not be needed to conduct the tests. This is because the test procedure as finalized does not call for a test at a temperature near this lower turn off temperature. Hence DOE is requiring reporting only of the temperature at which the crankcase heater is designed to turn on.

10. Compliance Dates

Rheem, Nortek, Goodman and JCI expressed concern with complying with the off mode power rating within 180 days of publication of the final test procedure. (Rheem, No. 69 at p. 3; Nortek, No. 58 at p. 7; Goodman, No. 73 at p. 20; JCI, No. 66 at p. 9) JCI commented that at least one test year is needed to complete the work to comply. (JCI, No. 66 at p. 9) JCI further suggested that they would agree with requiring the off mode test for any new basic model starting 180 days after the publication of final rule, but that all existing basic models should be granted an extended period of 5 years for compliance. (JCI, No. 66 at p. 9) Nortek commented that manufacturers should have at least two years to comply with this change, otherwise DOE must explicitly permit all existing products to be grandfathered in until the new energy conservation standard goes into effect. (Nortek, No. 58 at p. 7) Goodman commented that manufacturers are statutorily provided with five years to comply with energy conservation standards, which DOE has reduced to less than six months. Goodman requested that DOE provide at least half of the required statutory time (two-and-a-half years) to comply with the off-mode standard compliance and certification requirements. Goodman noted that DOE could not presently assert civil penalties for off-mode because there is no final method of test. (Goodman, No. 73 at p. 20–21)

DOE understands that the stakeholders' concern with the compliance date is due to the test burden related to measuring off mode power consumption. In this final rule, DOE has considerably reduced the test burden in the following aspects: (a) manufacturers do not need to test each basic model for off mode power consumption and instead are allowed to use an AEDM for off mode with certain requirements (discussed in section III.B.8); (b) all units are allowed to be tested for off mode power consumption in a temperature-controlled room rather than a psychrometric room; and (c) for units having a compressor crankcase heater whose power consumption can be determined without ambient condition requirements (*e.g.* the heater's wattage when energized does not vary with ambient temperature), manufacturers do not need to use temperature-controlled test facilities.

With the test procedure allowances stated above, DOE believes that the off mode test burden has been reduced significantly and manufacturers should be able to provide the off mode power represented values within 180 days as required by statute.

E. Test Repeatability Improvement and Test Burden Reduction

42 U.S.C. 6293(b)(3) states that any test procedure prescribed or amended

shall be reasonably designed to produce test results which measure energy efficiency and energy use of a covered product during a representative average period of use and shall not be unduly burdensome to conduct. This section discusses clarifications to improve test procedure repeatability and to reduce test burden. None of the clarifications listed in this section would alter the average measured energy consumption of a representative set of models.

1. Indoor Fan Speed Settings for Blower Coil or Single-Package Systems

Indoor unit fan speed is typically adjustable to assure that the required air volume rate is provided for the range of field-installed ductwork systems that the unit might use for air distribution. The DOE test procedure has specific requirements for fan speed adjustment, external static pressure, and air volume rate during the test. For a ducted blower coil system, DOE's test procedure requires that (a) external static pressure be no less than a minimum value that depends on cooling capacity [9] and product class, ranging from 1.10 to 1.20 inches of water column (in. wc.) for small-duct, high-velocity systems and from 0.10 to 0.20 in. wc. for all other systems except non-ducted (see 10 CFR part 430, subpart B, Appendix M, Table 2); and that (b) the air volume rate divided by the total cooling capacity not exceed a maximum value of 37.5 cubic feet per minute of standard air (scfm) per 1000 Btu/h of cooling capacity [10] (see 10 CFR part 430, subpart B, Appendix M, Section 3.1.4.1.1). In the November 2015 SNOPR, DOE proposed that blower coil products be tested using the lowest speed setting that satisfies the minimum static pressure and the maximum air volume rate requirements, if applicable, if more than one of these settings satisfies both requirements. This clarification was proposed to be added to section 2.3.1.a of Appendix M. 80 FR 69278, 69305 (Nov. 9, 2015).

Rheem agreed that the most logical and energy efficient method to set up an indoor fan on a central air conditioner or heat pump system is to set the indoor blower to the lowest fan setting that meets all of the air volume rate requirements. Rheem also agreed that lab to lab repeatability will improve with this requirement. (Rheem, No. 69 at p. 11)

JCI expressed concern that testing above the rated airflow would be permitted (JCI, No. 66 at p. 11). However, JCI expressed agreement with the proposal provided DOE establishes a tolerance relative to the rated airflow before adjusting speed settings (JCI, No. 66 at p. 17). In response to JCI, DOE did not intend to imply that the tested airflow is allowed to exceed the rated airflow. In this final rule, DOE has clarified this in sections 2.3.1.a and 2.3.2.a of the regulatory text by referencing section 3.1.4 for information on air volume rate control settings. Section 3.1.4 outlines a procedure in which the air volume rate is always set to the rated value or reduced to meet the static pressure requirement.

Further, DOE notes that in the current test procedure (section 3.1.4 of Appendix M) the air flow may be adjusted downwards from the rated air flow by up to 5 percent to meet the static pressure requirement before adjusting speed settings (*i.e.,* if the ESP is lower than required when running at the rated air flow, the code tester fan can be adjusted to increase ESP and decrease airflow, without increasing the fan speed setting, until airflow is 95 percent of rated airflow). The June 2010 NOPR proposed increasing this tolerance such that switching to a higher speed setting would be required when the air volume rate drops below 90 percent of the rated air volume rate without meeting the external static pressure requirement—a 10 percent tolerance below rated. 75 FR at 31234 (June 2, 2010).

NEEA commented that they do not support widening the gap between rated performance in the lab and actual performance in the field. NEEA requested that DOE research the adequacy of the 5 percent tolerance with an ESP testing minimum of 0.5 in. w.c. (NEEA, No. 7 at pp. 3–4). DOE does not believe that the air volume rate measurement in the field is very precise, if it is measured directly at all when systems are installed. This is because the apparatus used to measure air flow with this precision in the laboratory is very bulky and is not used for field installations. Hence, the increase from 5 to 10 percent tolerance would not increase the gap between field and laboratory operation. DOE adopts the tolerance as proposed.

DOE identified potential sources of confusion in section 3.1.4 and has improved the language for setting the air volume rate of ducted blower coil systems that use blower motors other than constant-air-volume-rate indoor blower motors. These changes do not alter the test method but rather provide clearer instructions for adjusting the indoor fan and the test apparatus settings to set the air volume rate in accordance with the test procedure.

Improper fan speeds implemented during testing may have a marked impact on product performance, and inconsistent implementation of speed settings and adjustments may be detrimental to test repeatability. DOE therefore proposed that manufacturers could include in their certification report a certified air volume rate and certified instructions for setting fan speed or controls to achieve that air volume rate. 80 FR 69278, 69305 (Nov. 9, 2015). The requirement has been adopted by DOE in the final rule. As part of the section 3.1.4 changes, DOE added instructions for testing if there is no certified air volume rate. Additionally, absent fan speed instructions for installation, DOE added instructions to use the as-shipped settings.

DOE also adds specificity on which test conditions to use for determining air volume rates. For instance, the A (for single-stage units) or A_2 test is specified for determining the cooling full-load air volume rate. Another modification places the 37.5 cubic feet per minute of standard air (scfm) per 1,000 Btu/h of capacity check as a last step in the process, after both the air volume rate and external static pressure requirements are met.

AHRI asked DOE to provide information on how the airflow 450 scfm per ton ceiling was derived and why it is still relevant. (AHRI, No. 70 at p. 13) DOE notes that the 450 scfm/ton ceiling is identical to the 37.5 scfm per 1,000 Btu/h maximum air flow requirement that is in the CAC/HP test procedure. This requirement has been in the DOE test procedure since it was initially established. On January 11, 2001, DOE published a NOPR in which it discussed whether this upper limit on air flow should remain in the test procedure, expressed interest in further discussion to resolve the question, but proposed not to change the limit. 66 FR 6774. The final rule completing that rulemaking did not again discuss the issue. 70 FR 59122 (Oct. 11, 2005).

DOE agrees with AHRI that the limit is not needed for blower coil systems. Increased air flow can improve heat transfer from the indoor coil. However, higher air flow for blower coil systems is at the expense of considerable fan power, which both reduces cooling capacity and increases system power. There is an optimum air flow for which efficiency would be maximized, typically near 400 scfm per ton, but it is different for each system. In a blower coil system test, the added fan power required to move additional air is

[9] Or heating capacity for heating-only heat pumps.

[10] Such a requirement does not exist for heating-only heat pumps.

incorporated in the measurement. Hence, a manufacturer would not have incentive to increase rated airflow unreasonably. On the other hand, not setting an upper bound on air flow in the test procedure gives manufacturers more design flexibility. For these reasons, DOE has removed the 450 scfm per ton requirement for blower coil systems in this final rule notice. DOE does, however, expect that certified airflow rates will be consistent with installation instructions, since ultimately the test procedure is intended to reflect field performance.

For consistency with the furnace fan test procedure, DOE proposed to add to Appendix M the definition for ''airflow-control setting'' that has been adopted in Appendix AA to refer to control settings used to obtain fan motor operation for specific functions. 80 FR 69278, 69305 (Nov. 9, 2015). DOE did not receive comments on this proposal and is retaining it as proposed.

2. Air Volume Rate Adjustment for Coil-Only Systems

In the current DOE test procedure, for a coil-only system, the pressure drop across the indoor unit must not exceed 0.3 inches of water for the A test (or A_2 test for two-capacity or variable-capacity systems), and the maximum air volume rate per capacity must not exceed 37.5 cubic feet per minute of standard air (scfm) per 1000 Btu/h. (10 CFR part 430, subpart B, Appendix M, Section 3.1.4.1.1) For such systems, higher air volume rates enhance the heat transfer rate of the indoor coil, and therefore may maximize the measured system capacity and efficiency. In addition, the energy use and heat input attributed to the fan energy for such products is a fixed default value in the test procedure, and is set at 365 W per 1,000 scfm (see, for example, 10 CFR part 430, subpart B, Appendix M, Section 3.3(d)). Thus, the impact from fan power on the efficiency measurement if air volume rate is increased may be more modest than for a blower coil unit, for which fan input power would increase more rapidly due to the increase of internal pressure drop as well as air volume rate. To prevent rating based on excessive air volume rates, a maximum pressure drop of 0.3 in. wc. is specified for the indoor coil assembly. To minimize potential testing variability due to the use of different air volume rates, in the November 2015 SNOPR, DOE proposed to require for coil-only systems for which the maximum air flow (37.5 scfm/1,000 Btuh) or maximum pressure drop (0.3 in wc) are exceeded when using the specified air flow rate, that the air flow rate must be reduced so that both are satisfied. This is specified in section 3.1.4.1.1.c of Appendix M as proposed. 80 FR 69278, 69305 (Nov. 9, 2015). DOE did not receive comments on this proposal other than the AHRI comment regarding the 450 scfm per ton upper limit on air flow discussed above. DOE believes that the 0.3 in wc coil pressure drop maximum provides a limit on airflow that is comparable, *i.e.* exceeding the 450 scfm per ton limit would generally involve also exceeding the 0.3 in wc limit. Hence, DOE sees little need to maintain the 450 scfm per ton limit only for coil-only systems and, consistent with the approach discussed above for blower coil systems, has removed this limit for coil-only systems.

3. Requirements for the Refrigerant Lines and Mass Flow Meter

Section 2.2(a) of 10 CFR part 430, subpart B, Appendix M provides instructions for insulating the ''low-pressure'' line(s) of a split system. In the cooling mode, the vapor refrigerant line connecting the indoor and outdoor units operates at low refrigerant pressure. However, in the heating mode, it operates at high pressure. To improve clarity and ensure that the language of the test procedure refers specifically to the actual functions of the refrigerant lines, DOE proposed in the November 2015 SNOPR to refer to the lines as ''vapor refrigerant line'' and ''liquid refrigerant line''. 80 FR 69278, 69306 (Nov. 9, 2015).

Because DOE seeks to minimize test variability associated with the use of insulation, the November 2015 SNOPR included a proposal for determining the insulation requirement for the test based on the materials and information shipped with the test unit. Under this proposal, test laboratories would install the insulation shipped with the unit. If the unit is not shipped with insulation, the test laboratory would install the insulation specified in the installation manuals shipped with the unit. If instructions for refrigerant line insulation are not provided, liquid line insulation would be used only for heating-only heat pumps. These proposed requirements were intended to reduce test burden and improve test repeatability. 80 FR 69278, 69306 (Nov. 9, 2015).

Additionally, DOE proposed to add requirements to Appendix M, section 2.10.3 to require use of a thermal barrier to prevent thermal transfers between the flow meter and the test chamber floor if the meter is not mounted on a pedestal or other support elevating it at least two feet from the floor. 80 FR 69278, 69306 (Nov. 9, 2015).

DOE requested comment on these proposals. Many stakeholders agreed with the proposals. (NEEA and NPCC, No. 64 at p.8; ADP, No. 59 at p.9; UTC/Carrier, No. 62 at p. 13; Rheem, No. 69 at p. 11) DOE did not receive any comments opposing these proposals. Therefore, in this final rule, DOE adopts these proposals and adds a specification that insulation should remain the same for heating mode and cooling mode.

4. Outdoor Room Temperature Variation

The current DOE test procedure requires that a portion of the air approaching the outdoor unit's coil is sampled using an air sampling device, often called an air sampling tree. (See Appendix M, section 2.5). To ensure that the measured temperature accurately represents the average temperature approaching the coil even if there might be variation in the outdoor room conditions, the November 2015 SNOPR proposed to require demonstration of air temperature uniformity over all of the air-inlet surfaces of the outdoor unit using thermocouples, if sampling tree air collection is not performed on all inlet-air faces of the outdoor unit. Specifically, DOE proposed requiring that the thermocouples be evenly distributed over the inlet air surfaces such that there is one thermocouple measurement representing each square foot of air-inlet area. The maximum temperature spread to demonstrate uniformity, *i.e.,* the maximum allowable difference in temperature between the measurements at the warmest location and at the coolest location, would be 1.5 °F. If this value is exceeded, DOE proposed that sampling tree collection of air would be required from all air-inlet surfaces of the outdoor unit. DOE proposed in the November 2015 SNOPR to add these requirements to Appendix M, section 2.11.b. 80 FR 69278, 69306–07 (Nov. 9, 2015).

In its comments on the November 2015 SNOPR, Rheem agreed with DOE's proposal. (Rheem, No. 69 at p. 12) UTC/Carrier also supported this proposal, indicating that although it will be challenging for testing facilities, it should reduce testing uncertainty. (UTC/Carrier, No. 62 at p. 14). DOE recognizes that some of these proposed requirements could represent challenges, since they involve both addition of instrumentation and could require adjustment of outdoor room air circulation patterns in order to assure that the maximum temperature difference is not exceeded.

Some stakeholders indicated that aspects of the proposal were not clear. JCI and AHRI commented that the

proposal did not specify if the 1.5 °F maximum range for the observed temperatures measured by the thermocouples applies to time averages or instantaneous measurements made at any time during the test period, with AHRI adding that the tolerance should apply to the time-average measurements. (JCI, No. 66 at p.18; AHRI, No. 70 at p. 13; ADP, No. 59 at p. 10; Lennox, No. 61 at p. 17). JCI, AHRI, ADP, and Lennox commented that the regulatory text portion of the notice requires that the thermocouple grid be used to verify temperature uniformity whether or not air samplers are used on all air inlet faces of the outdoor unit, while the preamble discussion (section III.E.3 of the notice) indicates that the thermocouple grid is not needed if air samplers are used on all air inlet faces—the commenters questioned the requirement for use of the thermocouple grid if air samplers are used on all faces. (JCI, No. 66 at p.18; AHRI, No. 70 at p. 13; ADP, No. 59 at p. 10; Lennox, No. 61 at p. 17). In response, DOE notes that DOE intended that the tolerance apply to the average temperatures measured during the test period and that the thermocouple grid be waived if the air samplers are used on all air inlet faces. DOE revised Appendix M for consistency with the intent of the proposal. DOE notes that time variation of the air inlet temperature is already addressed by the test operating tolerance requirement of ANSI/ASHRAE 37–2009.

JCI and Ingersoll Rand suggested increasing the allowed variation between thermocouples on the thermocouple grid or sampler to 2.5F. (JCI, No. 66 at p.11; Ingersoll Rand, No. 65 at p. 5) In response, DOE notes that the proposal was somewhat lenient in allowing only one inlet air face to be measured with an air sampler if the temperature uniformity requirement is met. If, for example, the outdoor unit has four air inlet faces and the face with an air sampler is measuring high just within the allowed tolerance, while all the others are reading low, the actual average outdoor air condition would be up to 1.9 °F lower than measured by the air sampler if the maximum allowed tolerance were 2.5 °F.[11] Hence DOE is reluctant to allow significant departure from the proposed 1.5 °F tolerance. However, DOE has increased the tolerance to 2.0 °F, noting that the accuracy of thermocouples is at best nearly +/- 1 °F without careful calibration, thus making imposition of a 1.5 °F maximum range impractical.

JCI commented that they have had excellent experience with regard to the balance of entering air when using a 3-sided air sampler for products with 4 inlet air surfaces. (JCI, No. 66 at p.17) However, the comment did not provide DOE details to clarify what this means in terms of air temperature uniformity and how they determined that the 3-sided approach is sufficient. For example, if testing using four air samplers with separate measurements has always shown that any three of the air samplers provides an average temperature that is negligibly different than the full four-air-sampler average, such results would indicate strongly that the fourth air sampler was not necessary. DOE may consider such information and potential revision of the temperature uniformity requirements in a future rulemaking if such data can be provided.

AHRI and JCI commented that the requirement to provide thermocouples for every square foot of outdoor coil surface would increase test burden, potentially requiring use of up to 40 thermocouples for larger units. (AHRI, No. 70 at pp. 12–13; JCI, No. 66 at p.11). DOE notes that the thermocouples are not required if all air-inlet faces of the outdoor unit are measured using air samplers. DOE also notes that the 2015 draft version of AHRI Standard 210/240 calls for use of 16 thermocouples per air sampler. If using four air samplers, this adds up to 64 thermocouples. DOE has modified the requirement so that the thermocouple density would be 16 per face or one per square foot of inlet area, whichever is less. However, as noted before, the thermocouples are not required if air samplers are used on all air inlet faces.

Ingersoll Rand commented that DOE should specify the location of the thermocouples, indicating that poor choice of location could, contrary to ASHRAE 37 requirements, lead to the thermocouple grid blocking the natural recirculation of condenser discharge air to the air inlet that may be inherent to the product design. The comment recommended that the thermocouples be mounted on an air sampler. Ingersoll Rand also recommended adding a specification to correlate the average thermocouple reading to the dry bulb temperature measurement of the sampled air, similar to the requirements of the thermopile used on the indoor side. (Ingersoll Rand, No. 65 at p. 5) In response, DOE notes that thermocouple requirement applies only if all air inlet faces of the outdoor unit are not measured using air samplers. DOE has modified the test procedure language to indicate that natural recirculation of discharge air back to the air inlet should be avoided when mounting the thermocouples, and that they should be located 6 to 24 inches from the air inlet face. Certainly any thermocouple that blocks discharge air flow will register a high measurement that is outside of the specified tolerance. Regarding the correlation of thermocouple measurements with the air sampler dry bulb temperature measurement, DOE has not adopted this recommendation because it is not clear what its purpose would be. For the indoor side, such correlation helps to calibrate the thermocouple grid measurement for the cyclic test, but the outdoor air inlet temperature measurements are not used in a similar way for any of part of the tests. DOE adopts the amendments as proposed except for the changes discussed in this section, including (a) adopting 16 as the maximum number of thermocouples per inlet face, (b) increasing the maximum temperature range from 1.5 °F to 2.0 °F, (c) clarifying that the maximum range applies to the average measurements for the test period, and (d) clarifying that the thermocouples should not interfere with condenser discharge air flow.

5. Method of Measuring Inlet Air Temperature on the Outdoor Side

The average dry bulb temperature of air approaching the air inlet faces of the outdoor unit can be measured using air samplers or using thermocouple grids. To improve test repeatability, in the November 2015 SNOPR, DOE sought to ensure that temperature measurements taken during the test are as accurate as possible. DOE proposed that the air sampler dry bulb measurement (rather than the thermocouple grids) be the basis of comparison with the outdoor air dry bulb temperature requirement for the test. 80 FR 69278, 69307 (Nov. 9, 2015).

Rheem and ADP agreed with DOE's proposal in the November 2015 SNOPR. (Rheem, No. 69 at p. 12; ADP, No. 59 at p. 10) There were no comments against the proposal. Hence, DOE adopts the proposal in this final test rule.

6. Requirements for the Air Sampling Device

In the November 2015 SNOPR, DOE proposed to require that no part of the room air sampling device or the means of air conveyance to the dry bulb temperature sensor be within two inches of the test chamber floor. DOE also proposed to require those surfaces of the air sampling device and the

[11] For example, if the air approaching the air-sampled face were 95 °F while the air approaching the other faces were 92.5 °F, the actual average inlet air temperature would be 93.1 °F, nearly 2 °F lower than the temperature measured by the air sampler.

means of air conveyance that are not in contact with the indoor and outdoor room air be insulated. 80 FR 69278, 69307 (Nov. 9, 2015).

DOE also proposed to require that humidity measurements and dry bulb temperature measurements used to determine the moisture content of air be made at the same location in the air sampling device. As discussed in section III.E.14, DOE also proposed several amendments to air sampling procedures that are included in a draft revision of AHRI 210/240. 80 FR 69278, 69307 (Nov. 9, 2015).

Many stakeholders supported these proposals. (JCI, No. 66 at p.18; ADP, No. 59 at p. 10; UTC/Carrier, No. 62 at p. 14; Unico, No. 63 at p. 9; Rheem, No. 69 at p. 12). There were no comments against the proposals. Therefore, DOE adopts the proposals.

7. Variation in Maximum Compressor Speed With Outdoor Temperature

In the November 2015 SNOPR, DOE proposed that the maximum compressor speed be defined for the test procedure as the absolute maximum speed at which the compressor operates, allowing for a different maximum for heating mode as opposed to cooling mode. One implication of this proposal is that the maximum speed cannot be different for different cooling mode test conditions, and likewise it cannot be different for different heating mode test conditions. 80 FR 69278, 69307 (Nov. 9, 2015).

Some stakeholders supported this proposal and others did not. In its comments, Rheem tentatively agreed with the proposal but indicated it would support DOE conducting further studies. (Rheem, No. 69 at p. 12) AHRI also proposed further study on the issue without further specificity. (AHRI, No. 70 at p. 17) UTC/Carrier requested clarification, although commented that the proposal seemed to be current industry practice. (UTC/Carrier, No. 62 at p. 14) JCI and Goodman also agreed that the maximum speed should be held constant. (JCI, No. 66 at p. 18; Goodman, No. 73 at pp. 8–9)

In contrast, Ingersoll Rand and Lennox commented that they do not support the proposal to fix the maximum compressor speed because it limits the potential performance benefits of heat pumps. (Ingersoll Rand, No. 65 at p. 11; Lennox, No. 61 at p. 11) Ingersoll Rand commented that this proposal will become a bigger problem when the heating load line of Appendix M1 is implemented. (Ingersoll Rand, No. 65 at p. 11) Lennox conducted testing on a three ton system and determined that operation at the 17 degree test point could be enhanced by 40 percent capacity and 10 percent HSPF by allowing the speed of the compressor to change with outdoor air temperature. (Lennox, No. 61 at p. 11) Mitsubishi recommended that the current testing process remain the same and that the optional testing method for HSPF should allow manufacturers to obtain ratings that incorporate the varying of the maximum compressor speed with outdoor temperatures. (Mitsubishi, No. 68 at p. 4)

DOE agrees with JCI and Goodman that the maximum speed should be the same for the different test conditions. DOE notes that a unit's performance is calculated based on test results using extrapolation and interpolation assuming that capacity and power vary linearly with outdoor temperature (*i.e.,* the capacity and power vary a fixed amount in Btu/h for each additional degree that the outdoor temperature rises). For example, equations 4.2.2–3 and 4.2.2.–4 in Appendix M of the current test procedure are used with k set equal to 2 to calculate heat pump capacity and power input when operating at maximum speed. The performance for temperatures below 17 °F and above 45 °F ambient temperatures is calculated based on tests conducted at 17 °F and 47 °F. Specifically, an equation for capacity as a function of ambient temperature is determined based on the measured capacities at 17 °F and 47 °F. This equation is then used to calculate capacity for all ambient conditions cooler than 17 °F and warmer than 45 °F. The same is done to determine heat pump power input for these temperature ranges. In a similar fashion, performance for temperatures between 17 °F and 45 °F are calculated based on tests conducted at 17 °F and 35 °F. The following example shows how allowing different compressor speeds for the pairs of tests used to determine performance can lead to non-representative results.

The heat pump in question varies its maximum compressor speed in heating mode—its performance is shown in Figure 2 of the Oak Ridge National Laboratory review of variable-speed heat pump test procedures. (Review of Test Procedure For Determining HSPF's of Residential Variable-Speed Heat Pumps, Docket No. EERE–2009–BT–TP–0004, No. 49 at p. 5) The maximum-speed capacity of this heat pump clearly does not vary linearly between outdoor temperatures of 17 °F and 47 °F. Use of the test procedure's equation to represent this heat pump's performance below 17 °F would indicate that its capacity increases as temperature drops below 17 °F, which clearly is not true. This example shows that allowing different maximum compressor speeds can lead to nonsensical results. Hence, DOE is maintaining its proposal, consistent with its understanding of the test procedure's original intent, that maximum speed be the same speed for all test conditions of the particular operating (heating or cooling) mode that uses maximum speed. DOE has, however, modified the test procedure in this notice such that the maximum speed for a given operating mode (heating or cooling) used for the test conditions required to rate the product does not have to be the absolute maximum used by the product for that operating mode. Hence, a heat pump could use a higher maximum compressor speed when operating in a 5 °F ambient condition than used for the required tests in 17 °F, 35 °F, and 47 °F conditions. This provision assures that cold-climate variable speed heat pumps, those that boost compressor speed in very low ambient temperatures to reduce the amount of heat provided by resistance heating, can be tested using appropriate compressor speeds for the tested operating conditions. DOE has implemented the requirements discussed in this section differently than proposed. Instead of adding the proposed clarifications for maximum and minimum compressor speed in the definition of ''variable-speed compressor system'', DOE has provided clarification regarding compressor speed requirements in sections 3.2 and 3.6, which describe the tests that are required to be conducted for cooling and heating modes.

DOE does agree that variable-speed heat pumps that have the capability to increase speed and thus heating capacity in lower ambient temperatures should have a test method that accurately reflects the performance of this potentially energy-saving feature (*e.g.,* see Lennox, No. 61 at p. 11). However, it is DOE's belief that accurately accounting for such a feature requires more careful consideration of test procedure changes beyond simply allowing the compressor speed to vary for the test conditions required by the current procedure. DOE will consider such revisions in a future rulemaking. In the meantime, if a manufacturer feels that more accurate representation of a unit's performance would be obtained with an alternative test procedure, the manufacturer has the option of petitioning for a test procedure waiver.

JCI and Goodman recommended using a different term than ''maximum compressor speed''. (JCI, No. 66 at p. 18; Goodman, No. 73 at pp. 8–9) Goodman

recommended adopting the term ''full'', as was proposed in the AHRI 210/240 Draft. DOE agrees and has modified the terminology accordingly, renaming the term ''maximum compressor speed'' to ''full speed'' to be consistent with AHRI 210/240 Draft.

The California IOUs commented that DOE should require the OUM to provide testing controls that allow fixed minimum, intermediate, and maximum speed/capacity controls settings. (California IOUs, No. 67 at p. 5) Rather than requiring provision of a test controller, DOE is requiring the provision as part of certification reporting of information that specifies the compressor frequency set points and settings for multi-step or variable-position components.

8. Refrigerant Charging Requirements

In the November 2015 SNOPR, DOE proposed to require that near-azeotropic and zeotropic refrigerant blends be charged in the liquid state rather than the vapor state. This was proposed for section 2.2.5.7 of Appendix M. 80 FR 69278, 69307 (Nov. 9, 2015).

DOE also proposed in the June 2010 NOPR to adopt into the test procedure select parts of the 2008 AHRI General Operations Manual indicating that the refrigerant charge cannot be changed after system setup. 75 FR at 31224, 31234–35 (June 2, 2010). DOE retained this requirement in the November 2015 SNOPR, specifically proposing that once the system has been charged with refrigerant consistent with the installation instructions shipped with the unit (or with other provisions of the test procedure, if the installation instructions are not provided or not clear), all tests must be conducted with this charge. 80 FR 69278, 69307 (Nov. 9, 2015).

Also, because the charging procedure would be different for systems with different metering devices, DOE also proposed to require manufacturers to report the type of metering device used during certification testing. 80 FR 69278, 69308 (Nov. 9, 2015).

If charging instructions are not provided in the manufacturer's installation instructions shipped with the unit, DOE proposed standardized charging procedures consistent with the type of expansion device to ensure consistency between testing and field practice. For a unit equipped with a fixed orifice type metering device for which the manufacturer's installation instructions shipped with the unit do not provide refrigerant charging procedures, DOE proposed that the unit be charged at the A or A_2 test condition, requiring addition of charge until the superheat temperature measured at the suction line upstream of the compressor is 12 °F.[12] For a unit equipped with a TXV or electronic expansion valve (EXV) type metering device for which the manufacturer's installation instructions shipped with the unit do not provide refrigerant charging procedures, DOE proposed that the unit be charged at the A or A_2 condition, requiring addition of charge until the subcooling [13] temperature measured at the condenser outlet is 10 °F plus or minus the proposed tolerance range.[14] 80 FR 69278, 69308 (Nov. 9, 2015).

For heating-only heat pumps for which refrigerant charging instructions are not provided in the manufacturer's installation instructions shipped with the unit, the proposed standardized charging procedure would be followed while performing refrigerant charging at the H1 or $H1_2$ condition. DOE also proposed that charging be done for the H1 or $H1_2$ test condition for cooling/heating heat pumps which fail to operate properly in heating mode when charged using the standardized charging procedure for the A or A_2 test condition. In such cases, some of the tests conducted using the initial charge may have to be repeated to ensure that all tests (cooling and heating) are conducted using the same refrigerant charge. DOE proposed to add this requirement to use the same charge for all tests to Appendix M in a new section 2.2.5.8. 80 FR 69278, 69308 (Nov. 9, 2015).

DOE understands that manufacturers may provide installation instructions with different charging procedures for the indoor and outdoor units. In such cases, DOE proposed to require charging based on the installation instructions shipped with the outdoor unit for OUM products and based on the installation instructions shipped with the indoor unit for ICM products, unless otherwise specified by either installation instructions. 80 FR 69278, 69308 (Nov. 9, 2015).

DOE also proposed that one or more refrigerant line pressure gauges be installed during the setup of single-package and split-system central air conditioner and heat pump products, depending on which parameters are used to set charge, unless otherwise specified by the installation instructions. DOE also proposed that the refrigerant charge be verified per the charging instructions provided in the installation instructions shipped with the unit, or, if no charging instructions are provided, the refrigerant charge would be verified based on the standardized charging procedure described above. 80 FR 69278, 69308 (Nov. 9, 2015).

As discussed in section III.E.14, DOE included in its proposal several aspects of the charging procedures that are included in a draft revision of AHRI 210/240. 80 FR 69278, 69308 (Nov. 9, 2015).

UTC/Carrier, Unico, Rheem, and JCI supported the November 2015 SNOPR proposal to require charging near-azeotropic and zeotropic refrigerant blends in the liquid state only. (UTC/Carrier, No. 62 at p. 14; Unico, No. 63 at p. 9; Rheem, No. 69 at p. 12; JCI, No. 66 at p. 18) There were no comments that disagreed with this proposal, so DOE is adopting it unchanged.

The California IOUs supported giving priority to the OUM charging instructions if the indoor and outdoor unit instructions differ but did not explain why the OUM charging instructions should take priority if both components include instructions and they are not consistent. DOE responds that integration of a system incorporating an OUM's outdoor unit and an ICM's indoor unit is the responsibility of the ICM. Consequently, DOE adopts the charging instruction priority as proposed, *i.e.* ICM instruction priority in this case.

The California IOUs also commented that providing generic superheat and subcooling temperatures is not appropriate or necessary, adding that manufacturers are required to include other types of installation instructions and should be required to do the same with something as basic as refrigerant charge. (California IOUs, No. 67 at p. 5) In response, DOE notes that most CAC/HP systems are shipped with installation instructions which discuss how to set refrigerant charge, and that it expects the provisions proposed to address cases where such instructions are not provided will not have to be used frequently. DOE notes further that providing clarity in the test procedure regarding how to address these situations will ensure that there is no question during testing about how to test products shipped without instructions.

[12] The range of superheating temperatures was generalized from industry-accepted practice and state-level authority regulations on refrigerant charging for non-TXV systems.

[13] The degree of subcooling or subcooling temperature is the extent to which a fluid is cooler than its refrigerant bubble point temperature at the measured pressure, *i.e.,* the bubble point temperature at a fluid's measured pressure minus its measured temperature. Bubble point temperature is the temperate at a given pressure at which vapor bubbles just begin to form in the refrigerant liquid.

[14] The range of subcooling temperatures was generalized from manufacturer-published and technician-provided service instructions and are typical of industry practice.

Rheem added that it provides refrigerant charging instructions that are dependent on the design of the unit; the charging instructions are different for different expansion devices (Rheem, No. 69 at p. 15). Consequently, DOE is adopting the proposal to provide standardized charging procedures that are based on the type of expansion device. Rheem commented that if the manufacturer does not specify a target superheat or subcooling point, 10 °F +/− 1 °F superheat should be used for systems with a fixed refrigerant restrictor and 10 °F +/− 0.6 °F subcooling should be used for systems with a TXV or electronic expansion valve. (Rheem, No. 69 at p. 15). As mentioned above, DOE does not expect the ''generic'' values of 12 °F superheat and 10 °F subcooling to be used frequently and notes that manufacturers that desire that different target values be used should be sure to include installation instructions with the units. DOE did not receive other comments regarding the specific values of the targets in case instructions are not provided, and DOE's research suggests that the proposed values are a good representation of the ranges of values provided in installations instructions for existing products. Hence, DOE is adopting the target values proposed in case instructions are not provided.

Unico did not support charging to a specific subcooling value in heating unless the product is heating-only (Unico, No. 63 at p. 10).

Responding to DOE's question about confirming proper operation in the H1 or $H1_2$ test for heat pumps following charging at the A or A_2 test condition, JCI requested that manufacturers be permitted to set charge levels in either heating or cooling mode (JCI, No. 66 at p. 19). Rheem agreed with the proposal to test a heat pump in the H1 or $H1_2$ test in case it does not operate properly in heating mode with a charge set in the cooling mode, provided a definition of nonfunctional is added to the test procedure. (Rheem, No. 69 at p. 13) In response, DOE added explanation in section 2.2.5.2.b that shutdown of a unit by its limiting devices would constitute non-operation.

DOE notes that the proposal in the November 2015 SNOPR requires that the installation instructions shipped with the system be consulted for instructions about how to charge the unit, and that the generic instructions be used only if no instructions are provided with the unit. Hence, a manufacturer has the option of requiring that charge be adjusted in cooling mode or to higher subcooling levels than indicated in section 2.2.5.4 of the November 2015 SNOPR, both of which would address Unico's concerns. Likewise, a manufacturer could specify that charge be set in either heating or cooling mode, which addresses JCI's concerns. 80 FR 69278, 69308 (Nov. 9, 2015).

In order to clarify that the manufacturer can specify the operating mode to be used for setting charge, DOE has added language to section 2.2.5.2 of this final rule notice allowing manufacturers the option of specifying tests for charging other than the A or A_2 test. DOE maintains, however, the requirement that air volume rate must be determined by the A or A_2 test.

Goodman disagreed that all single-package units must be pressure-verified, requesting an option for manufacturers to specify whether or not to connect pressure measurement devices (Goodman, No. 73 at p. 9). In response, section 2.2.5.5 of this final rule notice allows for manufacturers to specify in installation instructions whether or not pressure measurement instruments should be attached. Otherwise, DOE is adopting the proposal regarding refrigerant pressure gauges.

For the final rule, DOE has explicitly designated the charging tolerances as test condition tolerances (see section 2.2.5.4). This clarifies that the charging tolerances refer to the maximum permissible differences between the average value of the measured temperature and the specified temperature in the DOE test procedure.

Also for the final rule, DOE has relaxed the tolerance on subcooling in section 2.2.5.4 from +/− 0.6 °F (the maximum tolerance listed in the draft version of AHRI 210/240) to +/− 2.0 °F. DOE is adopting this change for two reasons. First, in re-examining past tests, DOE has observed considerable variation in subcooling temperatures even for properly installed systems that are operating correctly. DOE believes a test condition tolerance of +/− 0.6 °F will unnecessarily increase the difficulty of testing these units. Second, the minimum accuracy requirements in the current test procedure on the temperature and pressure instruments could result in as much as a 3.0 °F measurement uncertainty on subcooling. Using today's typical instrumentation, however, the expected measurement uncertainty is about 1.0 °F. DOE does not wish to require tighter tolerances than measurement uncertainties. Based on this, DOE settled on the average, a 2.0 °F test condition tolerance on subcooling.

DOE analyzed the impact of this tolerance change on capacity and EER by simulating performance across split-system and single-package air-conditioners as well as split-system heat pumps, varying the subcooling. On both capacity and EER, the impact of a 2.0 °F fluctuation was less than 1% of the capacity and EER at baseline subcooling. DOE concluded that the advantages of increasing the tolerance in reducing test burden outweighed this impact. Hence, as mentioned, DOE is adopting the 2.0 °F tolerance on subcooling.

DOE received no other comments on proposals concerned with changing the refrigerant charge after setup, reporting the type of metering device, refrigerant charge verification, and/or any other DOE proposals. Consequently, DOE is adopting these proposals for this final rule notice.

9. Alternative Arrangement for Thermal Loss Prevention for Cyclic Tests

In the November 2015 SNOPR, DOE proposed an alternative testing arrangement to prevent thermal losses during the compressor OFF period that would eliminate the need to install a damper in the inlet duct that conveys indoor chamber air to the indoor coil. The proposed alternative testing arrangement would allow the use of a duct configuration that relies on changes in duct height, rather than a damper, to eliminate natural convection thermal transfer out of the indoor duct during OFF periods of the ''cold'' (for tests of cooling mode) or heat (for tests of heating mode) generated by the system during the ON periods. An example of such an arrangement would be an upturned duct installed at the inlet of the indoor duct, such that the indoor duct inlet opening, facing upwards, is sufficiently high to prevent natural convection transfer out of the duct. The approach was developed for situations where insufficient space is available to install a damper box for both the inlet and outlet ductwork—the approach still requires use of a damper box on the outlet. DOE also proposed to require installation of a dry bulb temperature sensor near the inlet opening of the indoor duct at a centerline location not higher than the lowest elevation of the duct edges at the inlet. Measurement and recording of dry bulb temperature at this location would be required at least every minute during the compressor OFF period to confirm that no thermal loss occurs. DOE proposed a maximum permissible variation in temperature measured at this location during the OFF period of ±1.0 °F. 80 FR 69278, 69308–09 (Nov. 9, 2015). ADP supported this approach. (ADP, No. 59 at p. 11)

Rheem commented that the currently required damper in the inlet portion of the indoor air ductwork has not been a source of variation in their test results. Rheem plans to continue using the current damper configuration. Rheem did not support an optional configuration. (Rheem, No. 69 at p. 13, 14) Rheem has not explained their objection to allowing use of the alternative approach sufficiently for DOE to understand the concern. Hence, in this final rule, DOE is adopting the option to allow an alternative testing arrangement to prevent thermal losses for cyclic testing. If the alternative testing arrangement is used, installation of a dry bulb temperature sensor near the inlet opening of the indoor duct would be required, as well as measuring and recording the dry bulb temperature from this sensor.

JCI agreed with the proposal, but was concerned that it may not be possible to maintain the 1.0 °F tolerance at the duct inlet with continuous readings. (JCI, No. 66 at p.18). In response, DOE has relaxed the requirement such that any pair of 5-minute averages of the dry bulb temperature at the inlet, measured at least every minute during the compressor OFF period of the cyclic test, do not differ by more than 1.0 °F.

10. Test Unit Voltage Supply

In the November 2015 SNOPR, DOE clarified that the outdoor voltage supply requirement supersedes the indoor requirement if the provisions result in a difference for the indoor and outdoor voltage supply. DOE proposed that both the indoor and outdoor units be tested at the nameplate voltage of the outdoor unit. 80 FR 69278, 69309 (Nov. 9, 2015).

DOE received no comment on this proposal, however DOE recognized that it is possible that the nameplate voltages of the indoor and outdoor units could be so different that one unit cannot operate with the other's voltage supply. For example, if the outdoor unit requires 230V while the indoor unit requires 120V, applying 230V to the indoor unit would not be appropriate. DOE reviewed the range of nameplate voltages typically used for single-phase products as listed in Table 1 on page 3 of AHRI Standard 110–2012, ''Air-Conditioning, Heating and Refrigerating Equipment Nameplate Voltages'' and determined that the only pair of nameplate voltages for which the electrical components for a product rated with one could operate using the voltage rated with the other are 208 V (200 V) and 230V. Hence, DOE has decided to require use of the outdoor voltage supply for both indoor and outdoor components only when one is rated with 208V or 200V and the other one is rated with 230V. For all other voltage combinations, DOE will require supplying each unit with its own nameplate voltage.

11. Coefficient of Cyclic Degradation

The current test procedure gives manufacturers the option to use a default cyclic degradation coefficient for cooling mode (C_D^c) value of 0.25 instead of running the optional cyclic test. In the November 2015 SNOPR, DOE proposed to update the default cooling C_D^c value in Appendix M to 0.2 based on testing of 19 units for which the measured degradation coefficient for cooling ranged from 0.02 to 0.18. DOE did not propose to update the default heating C_D^h value. 80 FR 69278, 69309 (Nov. 9, 2015).

Responding to DOE's proposal on the coefficient of cyclic degradation, stakeholders generally agreed with the proposed default of 0.2 for cooling. (see, *e.g.,* AHRI, No. 70 at p. 12 or Ingersoll Rand, No. 65 at p. 1) The test procedure adopted in this final rule includes the proposed value of 0.2 as the default degradation coefficient for cooling for single-speed and two-capacity units.

However, DOE is aware that units with variable-speed compressors consistently have a higher coefficient of cyclic degradation than units with single-speed or two-capacity compressors. DOE reviewed the California Energy Commission (CEC) database of variable speed air conditioners and observed that the variable speed products rarely have a cooling C_D^c as low as 0.2. In its review of the CEC database, DOE noticed that many variable speed units are listed as multiple speed units. DOE separated the variable speed units from this group based on review of the product specification sheets, thus leading to a more complete list of variable speed models. As a result DOE found that, of 639 listed models that have variable-speed operation, only 76 (*i.e.* 11%) are rated with a C_D^c value less than or equal to 0.2. As discussed above, DOE initially proposed reducing the default value from 0.25 to 0.2 based on test data showing C_D^c values consistently below 0.2. However, these data did not include measurements for variable-speed units. Based on the clear evidence as illustrated by the CEC database information, the 0.2 value is not representative of the cyclic performance of variable-speed units. Hence, DOE has maintained the current default cooling C_D^c of 0.25 for variable speed products and unmatched outdoor units (see section III.A.3.g), while changing to a default value of 0.2 for all other products as proposed.

DOE also proposed significant changes to the cyclic test. DOE proposed that before determining C_D^c, three ''warm up'' cycles for a unit with a single-speed compressor or two-speed compressor or two ''warm up'' cycles for a unit with a variable speed compressor must be conducted. Then a minimum of three complete cycles would be conducted after the warm-up period, taking a running average of C_D^c after each additional cycle. If after three cycles, the average of three cycles does not differ from the average of two cycles by more than 0.02, the three-cycle average should be used. If it differs by more than 0.02, up to two more valid cycles must be conducted. If the average C_D^c of the last three cycles are within 0.02 of or lower than the previous three cycles, use the average C_D^c of all valid cycles. After the fifth valid cycle, if the average C_D^c of the last three cycles is more than 0.02 higher than the previous three cycles, the default value must be used. DOE proposed the same changes for the test method to determine the heating coefficient of degradation. 80 FR 69278, 69309 (Nov. 9, 2015).

As a departure from the current test procedure approach, DOE proposed that manufacturers would have to conduct cyclic testing to determine C_D^c for each tested unit, rather than allowing them to use the default and avoid cyclic testing. Per the proposal, the default value would be used only if stability was not achieved during testing or when rating outdoor units with no match. 80 FR 69278, 69309 (Nov. 9, 2015).

AHRI, Lennox, UTC/Carrier, Ingersoll Rand, JCI, and Rheem commented that manufacturers should be allowed to use the default value without having to run the cyclic test. (AHRI, No. 70 at p. 12; Lennox, No. 61 at p. 18; UTC/Carrier, No. 62 at p. 17; Ingersoll Rand, No. 65 at p. 2, JCI, No. 66 at p. 10; Rheem, No. 69 at p. 14) In contrast, NEEA commented in response to the June 2010 NOPR that laboratory measurements are often ''at odds'' with the 0.25 default value, and suggested that testing is more accurate and should always be conducted. The comment did not indicate whether the measurements were generally higher or lower than the default. (NEEA, No. 7 at p. 6)

Lennox, UTC/Carrier, Rheem and AHRI suggested that a manufacturer should be allowed to use the first two cycles meeting a stability requirement, rather than requiring three warm-up cycles before official measurement begins. (Lennox, No. 61 at p. 18; UTC/Carrier, No. 62 at p. 17; Rheem, No. 69 at p. 14; AHRI, No. 70 at p.11). If

stability is not reached after eight cycles, several manufacturers suggested use of either a measured value or the default value, whichever is lower, rather than requiring use of the default value. Lennox, Rheem and UTC/Carrier suggested that this measured value be the highest C_D^c recorded for any of the eight test cycles. (Lennox, No. 61 at p.18; Rheem, No. 69 at p. 14; UTC/Carrier, No. 62 at p. 17) JCI suggested that the measured value be the average of the three highest measured C_D^c values (JCI, No. 66 at p. 10), and Ingersoll Rand suggested that the measured value be the highest C_D^c recorded in cycles four through eight (Ingersoll Rand, No. 65 at p. 3).

After reviewing all the stakeholders' comments, DOE has decided to allow manufacturers to use the default value without testing. Also, DOE is removing the requirement to conduct three warm-up cycles prior to making measurements. In the test finalized in this notice, a minimum of three cycles must be measured, and the test may then be terminated if the stability requirement is achieved. The test will still be required to continue for up to eight cycles if stability is not achieved. When the test is terminated, the highest C_D^c value recorded for any one test cycle would be used, unless it is higher than the default C_D^c, in which case the default would be used. The same approach is also adopted for the heating mode cyclic test. In response to the NEEA comment, DOE's data suggest that most single-stage and two-stage units have cyclic degradation coefficients less than the default and, in DOE's experience, manufacturers of such products nearly always run the cyclic test. DOE specifically re-evaluated selection of the default value so that it is higher than the expected result, but DOE retains in its procedures use of the default value rather than testing to limit test burden for cases where a low C_D^c is not critical to assuring that the represented value is compliant with the standard (*e.g.* for variable-speed units, which generally have higher C_D^c than single-stage or two-stage units).

In order to improve the accuracy of the cyclic test, DOE proposed in the June 2010 NOPR a calibration step in which the temperature difference between measurements of the inlet and outlet thermocouple grids used to make the cyclic test capacity measurements is checked during the steady state test which precedes the cyclic test (*e.g.* the steady state C test for cooling). If this temperature difference compares unfavorably to the more accurate dry bulb temperature difference based on air samplers and sample-air temperature sensors (*e.g.* resistance temperature detectors (RTDs)), the proposal required that a calibration adjustment be made for the thermocouple grid measurements for use in the cyclic test. 75 FR 31235 (June 2, 2010). NEEA commented that they have no objection to DOE's proposal. (NEEA, No. 7 at p. 4) In contrast, AHRI disagreed with DOE's proposal and supported using the same temperature devices between the steady-state tests and cyclic tests to calculate C_D in order to ensure consistency of measurement between the two tests. (AHRI, No. 6 at p. 3) DOE notes that AHRI's recommended solution, use of the thermocouple grids for measurement of the inlet/outlet temperature difference for both the steady-state and cyclic tests used as the basis for calculating C_D, does not fully resolve the potential error in measurement if the measured temperature difference is high or low. In such a case, both the steady state and cyclic capacity estimates may be incorrect, and the overall measurement less precise than if the calibration step is taken. In order to achieve the original goal of improving the accuracy of the cyclic test, the test procedure in this final rule notice includes the proposed calibration step.

12. Break-in Periods Prior to Testing

DOE proposed in the November 2015 SNOPR to allow manufacturers the option of specifying a break-in period to be conducted prior to testing under the DOE test procedure. DOE proposed to limit the optional break-in period to 20 hours, which is consistent with the test procedure final rule for commercial HVAC equipment. DOE also proposed to adopt the same provisions as the commercial HVAC rule regarding the requirement for manufacturers to report the use of a break-in period and its duration as part of the test data underlying their product certifications, the use of the same break-in period specified in product certifications for testing conducted by DOE, and use of the 20 hour break-in period for products certified using an AEDM. 80 FR 69278, 69310 (Nov. 9, 2015).

In response to the November 2015 SNOPR, Unico supported the option of having a break-in period and had no comment on the number of hours. (Unico, No. 63 at p. 11) Several other commenters requested longer break-in periods than 20 hours. LG and Ingersoll Rand commented that on average 40 hours of operation are required to reach peak capacity and efficiency. (LG, No. 55 at pp. 1–2; Ingersoll Rand, No. 65 at pp. 10–11) Rheem commented that manufacturers should have the option of up to a 48 hour break-in period. (Rheem, No. 69 at p. 14) Goodman commented that at least 72 hours should be permitted for break-in period testing because they believe that shorter break-in periods could produce test results that are inaccurate. (Goodman, No. 73 at pp. 12–13) Lennox, UTC/Carrier, and JCI also commented that some compressor manufacturers recommend up to 72 hours break-in. (Lennox, No. 61 at p. 19; UTC/Carrier, No. 62 at p. 17; JCI, No. 66 at p. 19) UTC/Carrier requested that DOE research directly with compressor manufacturers to align with their recommended compressor break-in periods. (UTC/Carrier, No. 62 at p. 17) Lennox commented that manufacturers should be able to specify break-in conditions. (Lennox, No. 61 at p. 19) JCI commented that if a manufacturer is willing to pay for an extended break-in time, it is reasonable to allow it, as it more closely represents what the consumer will see in the installation. (JCI, No. 66 at p. 19)

LG and Ingersoll Rand further commented that they have worked towards a process for reducing the required break-in period for scroll compressors, and have developed a process to reduce the required break-in period to 12 hours. (LG, No. 55 at pp. 1–2; Ingersoll Rand, No. 65 at pp. 10–11) LG commented that they will be phasing in this new process through 2016, and requested DOE to adopt a phase-in approach for the rule implementation, with the limit being 40 hours on the rule effective date followed by the final 20 hour limit that would commence one year after the effective date. (LG, No. 55 at pp. 1–2) Ingersoll Rand recommended the effective date of the maximum break-in time be January 1, 2017. (Ingersoll Rand, No. 65 at pp. 10–11)

In a supplemental response to the October 2011 SNOPR, AHRI requested that DOE implement an optional 75-hour break-in period for testing central air conditioners and heat pumps. It stated that scroll compressors, which are the type of compressors most commonly used in central air conditioners and heat pumps, achieve their design efficiency after 75 hours of operation. AHRI also cited a study of compressor break-in periods to justify this period of time.[15] 80 FR 69278, 69309–310 (Nov. 9, 2015).

In the November 2015 SNOPR, DOE noted that, in reviewing the paper that AHRI cited, while the data indicate that products with scroll compressors do appear to converge upon a more

[15] Khalifa, H.E. ''Break-in Behavior of Scroll Compressors'' (1996). *International Compressor Engineering Conference.* Paper 1145.

consistent result after compressor break-in periods exceeding 75 hours, the most significant improvement in compressor performance and reduction in variation among compressor models both appear to occur during roughly the first 20 hours of run time.[16] 80 FR 69278, 69310 (Nov. 9, 2015). Considering the improvements in break-in as discussed in the comments of LG and Ingersoll-Rand, as well as the 1996 data which shows that most of the break-in occurs within 20 hours, DOE concludes that setting the bread-in period at 20 hours appropriately balances test burden and full completion of the break-in process.

After reviewing the comments, DOE maintains its proposal from the SNOPR, and will allow a break-in period up to a maximum of 20 hours. As noted in the November 2015 SNOPR, DOE believes that a lengthy break-in period is not appropriate or justified. Since DOE determined in the May 16, 2012 commercial HVAC equipment final rule that a 20 hour maximum break-in time would be sufficient for small commercial air-conditioning products, which are of a capacity similar to central air-conditioning products, DOE does not see justification for a break-in period longer than 20 hours for central air conditioners and heat pumps. DOE acknowledges the research being done to reduce the break-in period as highlighted by LG and Ingersoll Rand, but DOE notes that at this time, none of the commenters has provided new information or data that sufficiently justifies the need for a longer break-in period.

Some commenters also requested that DOE provide additional specification regarding the break-in. The California IOUs recommended that DOE specify the operation of systems during the break in period or require the OUM to specify how the break-in should be done. (California IOUs, No. 67 at p. 5) Rheem commented that the break-in period should be at the A test cooling condition after the unit is properly charged. (Rheem, No. 69 at p. 14)

Without test results clearly showing the benefits of a particular set of break-in conditions, DOE is reluctant to require conditions for break-in that will require it to be conducted in the psychrometric chamber as part of a test, due to the significant test burden that such a requirement would impose. DOE declines to add more specification to the break-in period at this time but may consider modifications in a future rulemaking, provided sufficient information is provided to justify specific recommendations.

[16] Ibid. pp. 442–443.

13. Industry Standards That Are Incorporated by Reference

In the November 2015 SNOPR, DOE proposed a number of updates to industry standards that are incorporated by reference. DOE proposed to update the IBR from ARI 210/240–2006 to AHRI 210/240–2008; ASHRAE 37–2005, Methods of Testing for Rating Unitary Air-Conditioning and Heat Pump Equipment to ANSI/ASHRAE 37–2009, Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment; ASHRAE 41.9–2000, Calorimeter Test Standard Methods for Mass Flow Measurements of Volatile Refrigerants to ASHRAE 41.9–2011, Standard Methods for Volatile-Refrigerant Mass Flow Measurements Using Calorimeters; ASHRAE/AMCA 51–1999/210–1999, Laboratory Methods of Testing Fans for Aerodynamic Performance Rating to AMCA 210–2007, Laboratory Methods of Testing Fans for Certified Aerodynamic Performance Rating; ASHRAE 41.1–1986 (Reaffirmed 2006), Standard Method for Temperature Measurement, to ANSI/ASHRAE 41.1–2013, Standard Method for Temperature Measurement; ASHRAE 41.6–1994, Standard Method for Measurement of Moist Air Properties to ASHRAE 41.6–2014, Standard Method for Humidity Measurement; and ASHRAE 23–2005, Methods of Testing for Rating Positive Displacement Refrigerant Compressors and Condensing Units, to ASHRAE 23.1–2010 Methods of Testing for Rating the Performance of Positive Displacement Refrigerant Compressors and Condensing Units That Operate at Subcritical Temperatures of the Refrigerant. DOE expressed the view that none of these updates includes significant changes to the sections referenced in the DOE test procedure and thus will not impact the ratings or energy conservation standards for central air conditioners and heat pumps.[17] 80 FR 69278, 69310–11 (Nov. 9, 2015).

In response, JCI encouraged DOE to utilize industry standards to the fullest extent possible. (JCI, No. 66 at p. 20) Goodman requested that DOE, along with other stakeholders, continue participation in the revision of AHRI 210/240 to assist in getting to the point where DOE can potentially adopt this standard outright. (Goodman, No. 73 at p. 16)

[17] ANSI/ASHRAE 37–2009 only updates to more recent versions of other standards it references. AMCA 210–2007 made slight changes to the figure referenced by DOE, which DOE has determined to be insignificant.

Ingersoll Rand requested DOE to remove all references to AMCA 210–2007, because it is for standalone air moving systems and does not match the configuration used for ducted HVAC equipment. (Ingersoll Rand, No. 65 at p. 13) AHRI and UTC/Carrier commented that the reference to AMCA 210–2007 in lieu of ASHRAE 116–1995 (RA 2005) for the air flow measurement apparatus is incorrect, and that instead the reference should be to section 6.3 of ANSI/ASHRAE 37–2009 or ASHRAE 41.2. (AHRI, No. 70 at p. 12; UTC/Carrier, No. 62 at p. 18)

DOE believes that the referenced sections are applicable to the airflow measurements required in Appendix M, as demonstrated by the installation types referenced in section 5.1.1 of AMCA 210–2007. DOE also notes that AHRI 210/240–2008 references the same sections of AMCA 210–2007 as Appendix M does, but DOE has simply chosen to reference AMCA 210–2007 directly. In response to AHRI and UTC/Carrier, DOE notes that section 2.6 of this final rule notice does reference sections 6.2 and 6.3 of ANSI/ASHRAE 37–2009 for fabricating and operating the Airflow Measurement Apparatus, and the manufacturer may refer to either Figure 12 of AMCA 210–2007 or Figure 14 of ASHRAE 41.2–1987 (RA 1992) for guidance on placing the static pressure taps and positioning the diffusion baffle. For these reasons, DOE maintains its incorporation by reference of AMCA 210–2007. DOE received no other comments on these proposed updates to industry standards, and in this final rule, DOE adopts all references to industry standards as proposed in the November 2015 SNOPR.

In the November 2015 SNOPR, DOE also proposed to revise the definition of ''continuously recorded'' based on changes to ASHRAE 41.1. ASHRAE 41.1–1986 (RA 2006) specified the maximum time interval of one minute for sampling dry-bulb temperature during a steady state test, with shorter sampling intervals based on expected rate of temperature change. The updated version, ANSI/ASHRAE 41.1–2013, does not contain specifications for sampling intervals. DOE proposed to require that dry-bulb temperature, wet bulb temperature, dew point temperature, and relative humidity data be ''continuously recorded,'' that is, sampled and recorded at 5 second intervals or less. DOE proposed this requirement as a means of verifying that temperature condition requirements are met for the duration of the test. 80 FR 69278, 69311 (Nov. 9, 2015).

UTC/Carrier and Rheem supported the proposed sampling interval. (UTC/

Carrier, No. 62 at p. 18; Rheem, No. 69 at p. 15) On the other hand, JCI recommended a longer sampling interval of 10 to 15 seconds, as there may be capital investment and programming required. (JCI, No. 66 at p. 20) Rheem commented that clarification is needed on how measurements such as the air leaving temperature are calculated from the multitude of values in the data sample. (Rheem, No. 69 at p. 15)

In response to JCI, DOE believes that the current standard of care requires digital data acquisition of all temperature and humidity measurements. DOE understands that for measurements being taken and recorded digitally, decreasing the sampling interval generally should have an insignificant impact on burden, since state-of-the-art data acquisition systems can easily record data at faster rates and the cost of the additional data storage is minimal. However, DOE understands that any specific test laboratory may require significant investment to upgrade to a faster data rate, depending on the capabilities of their current data acquisition systems, and hence has decided to increase the required sampling interval to 15 seconds. In response to Rheem's request for clarification, DOE believes that it is common industry practice, when continuously recording a parameter such as air leaving temperature, to average the value over the sampled interval. However, to enhance clarity, DOE has added words to sections 3.3.c and 3.7.b of Appendix M indicating that capacity is to be calculated using the averages of the 30-minute continuously-recorded measurements made for the parameters that are used to determine capacity (*e.g.* indoor air inlet and outlet temperatures).

14. References to ASHRAE Standard 116–1995 (RA 2005)

In the June 2010 NOPR, DOE proposed referencing ASHRAE Standard 116–1995 (RA 2005) within the DOE test procedure to provide additional information about the equations used to calculate SEER and HSPF for variable-speed systems. 75 FR 31223, 31243 (June 2, 2010). However, in section III.H.4 of the November 2015 SNOPR, DOE proposed to change the heating load line, and as such the equations for HSPF in ASHRAE 116–1995 (RA 2005) are no longer applicable. In order to prevent confusion, DOE proposed to withdraw the original proposal made in the June 2010 NOPR to reference ASHRAE 116–1995 (RA 2005) for both HSPF and SEER by removing those instances of these references. 80 FR 69278, 69311 (Nov. 9, 2015).

DOE also proposed to revise its reference for the requirements of the air flow measuring apparatus from ASHRAE 116–1995 (RA 2005) to ANSI/ASHRAE 37–2009. As this was the only other reference to ASHRAE 116 in Appendix M, DOE proposed to remove the incorporation by reference to ASHRAE 116–1995 (RA 2005) from the Code of Federal Regulations related to central air conditioners and heat pumps. 80 FR 69278, 69311 (Nov. 9, 2015).

AHRI, UTC/Carrier, Ingersoll Rand, Goodman, Rheem, and JCI disagreed with the proposal to withdraw the incorporation by reference of ASHRAE 116–1995 (RA 2005). (AHRI, No. 70 at p. 12; UTC/Carrier, No. 62 at pp. 17–18, Ingersoll Rand, No. 65 at p. 3; Goodman, No. 73 at p. 11; Rheem, No. 69 at p. 14; JCI, No. 66 at p. 10) AHRI, UTC/Carrier, Ingersoll Rand, Goodman, and JCI suggested adding a reference to the section on thermal mass correction to the cyclic capacity (section 7.4.3.4.5) to reduce variability. (AHRI, No. 70 at p. 12; UTC/Carrier, No. 62 at pp. 17–18, Ingersoll Rand, No. 65 at p. 3; Goodman, No. 73 at p. 11; JCI, No. 66 at p. 10)

DOE notes that the current test procedure does not reference the thermal mass correction to cyclic capacity. DOE acknowledges that, because ASHRAE 116 has been incorporated by reference into the DOE test procedure, and because the cyclic test would first have been developed as part of ASHRAE 116, it is understandable that the prevailing interpretation may have been that the correction has always been included in the DOE test procedure. DOE also acknowledges that the thermal mass stored in devices and connections located between measured points must be accounted for to ensure repeatability and accuracy of a cyclic test. DOE understands that accounting for thermal mass in this way is common industry practice. Therefore, DOE has included provisions in section 3.5 of the final rule requiring a thermal mass adjustment, referencing section 7.4.3.4.5 of ASHRAE 116–2010. DOE notes that it has updated the IBR from ASHRAE 116–1995 (RA 2005) to ASHRAE 116–2010, but the content of the referenced section has not changed.

15. Additional Changes Based on AHRI 210/240-Draft

In August 2015, AHRI provided a draft version of AHRI 210/240 for the docket that will supersede the 2008 version once it is published. (AHRI Standard 210/240-Draft, No. 45, See EERE–2009–BT–TP–0004–0045) The draft version includes a number of revisions from the 2008 version, some of which already exist in DOE's test procedure, and some of which do not. In the November 2015 SNOPR, DOE proposed to adopt several of these revisions. DOE noted that the final published version of what is currently the AHRI 210/240-Draft may not be identical to the docketed draft, and that if AHRI makes other than minor editorial changes to the sections DOE referenced in the SNOPR after publication, DOE would adopt the current draft content into its regulations and not incorporate by reference the modified test procedure. 80 FR 69278, 69312 (Nov. 9, 2015).

The AHRI 210/240-Draft added new size requirements for the inlet duct to the indoor unit, new external static pressure requirements for units intended to be installed with the airflow to the outdoor coil ducted, and a new requirement for the dew point temperature of the indoor test room when the air surrounding the indoor unit is not supplied from the same source as the air entering the indoor unit. DOE proposed to adopt these three revisions in the November 2015 SNOPR. 80 FR 69278, 69311 (Nov. 9, 2015).

DOE received comments from Ingersoll Rand regarding the proposed requirements for the inlet duct, which are discussed in section III.E.18. DOE did not receive any comments on the new external static pressure and dew point requirements and is adopting these revisions in this final rule.

The AHRI 210/240-Draft included differences as compared to the current DOE test procedure for setting air volume rates during testing. DOE proposed to adopt three of these changes because they would improve repeatability and the consistency of testing among different laboratories. 80 FR 69278, 69312 (Nov. 9, 2015). They include (a) use of air volume rates specified by manufacturers, (b) setting ESP requirements for operating modes other than full-load cooling, and (c) establishing an instability criterion for testing of units with constant-air-volume indoor blowers. DOE received no comments regarding these proposals and adopts them in this final rule.

DOE did receive several comments on other proposals related to setting air volume rates and has addressed these comments and revisions in section III.E.1.

The AHRI 210/240-Draft also included a more thorough procedure for setting of refrigerant charge than exists in the DOE test procedure. DOE proposed these changes because they improve test repeatability.

The AHRI 210/240-Draft also specifies both a target value tolerance and a maximum tolerance but does not specify in what circumstances each of these apply. In response, UTC/Carrier commented that they would like more detail, as correct refrigerant charging has a significant impact on performance and product reliability. (UTC/Carrier, No. 62 at p. 18) DOE interprets this comment as support of the additional detail regarding instructions for setting charge that were proposed in the November 2015 SNOPR, since the comment does not provide clarification regarding potential additional details that might be needed.

As an elaboration on DOE's past methodology, DOE believed that the AHRI 210/240-Draft did not clearly delineate how target value and maximum tolerances should be applied. Following from this lack of clarity, in the November 2015 SNOPR, DOE proposed to adopt the most liberal restriction on tolerance, the maximum tolerance, disregarding the AHRI 210/240-Draft target value. In addition, DOE proposed tolerances on the measured superheat and other parameters that would be set to specified levels during charging. 80 FR 69278, 69312 (Nov. 9, 2015). In this final rule, DOE continues to reference the maximum tolerance only. Additional comments regarding the procedure for setting of refrigerant charge, and revisions to the proposal are discussed in section III.E.8.

Finally, the AHRI 210/240-Draft included specifications for air sampling that provide more detail than provided in existing standards—DOE proposed incorporation of a number of these air sampling specifications into its test procedures. DOE did not receive comment on this proposal and is adopting the specifications in this final rule. However, DOE initially proposed incorporation by reference of sections of the AHRI 210/240-Draft, expecting that the standard might be published prior to this final rule. Because the AHRI standard was not finalized in time to incorporate the relevant sections of AHRI 210/240 by reference, DOE included the following provisions from the AHRI 210/240 draft in this final rule in order to finalize the proposal to adopt Appendix E4 Air Sampling Requirements in the November 2015 NOPR. DOE implemented these provisions consistent with the way they appear in the AHRI 210/240-Draft.

- DOE provided the definitions of Air Sampling Device and Aspirating Psychrometer to Section 1.2, Definitions, in Appendix M.
- DOE provided Section 2.14, Air Sampling Device and Aspirating Psychrometer Requirements, to Appendix M based on E 4.4 and E 4.6 of AHRI 210/240-Draft.
- DOE integrated the outdoor test setup instructions in E 4.2, E 4.4 and E 4.6 of AHRI 210/240-Draft and adopted those in Section 2.11 of Appendix M, with some revisions to improve clarity.
- In Section 2.11, DOE provided additional instructions regarding blockage of air sampling holes when this is done to prevent sampling of recirculated air. The revisions are intended to preserve symmetry and uniformity of air flow into the holes.
- In Section 2.11, DOE also clarified that tubes conveying sampled air may have reduced insulation requirements if dry bulb temperature measurements are made at the exit of each air sampler.

16. Damping Pressure Transducer Signals

In the June 2010 NOPR, DOE proposed to loosen the existing test operating tolerance assigned to the external resistance to airflow (ESP) from 0.05 to 0.12 in wc and the nozzle pressure drop tolerance from 2.0 percent to 8.0 percent. 75 FR 31223, 31234 (June 2, 2010).

In response to the June 2010 NOPR proposal, NEEA commented that it strongly disagreed with DOE's proposal, particularly for the ESP tolerance. NEEA also commented that it strongly supported another option presented by DOE at the June 11, 2010 public meeting, which is to lengthen the time constant for the measurements by signal integration and averaging, using a DOE-specified interval. (NEEA, No. 7 at p. 4)

AHRI commented that they disagreed with DOE's proposal to relax ESP and nozzle pressure drop tolerances. AHRI believed that the pressure transducer fluctuation issues could be resolved by implementing a time averaging routine or some kind of electronic damping algorithm that would provide the same results as a liquid manometer, using an algorithm agreed upon by AHRI members. (AHRI, No. 6 at p. 3)

In the November 2015 SNOPR, rather than proposing a revision of the operating tolerances for external resistance to airflow or nozzle pressure drop, DOE proposed to add clarifying language in the test procedure that would allow for damping of the measurement system to prevent high-frequency fluctuations from affecting recorded pressure measurements. The proposal allowed for damping of the measurement system so that the time constant for response to a step change in pressure (*i.e.* the time required for the indicated measurement to change 63% of the way from its initial value to its final value) would be no more than five seconds. This damping could be achieved in any portion of the measurement system. 80 FR 69278, 69312 (Nov. 9, 2015).

Rheem agreed with DOE's November 2015 SNOPR proposal regarding operating tolerances for external resistance to airflow or nozzle pressure drop. (Rheem, No. 69 at p. 15) JCI also agreed with that approach, but suggested that the time constant for response to a step pressure signal should be increased to 10 or 15 seconds, without providing an explanation why the slower response is needed. (JCI, No. 66 at p. 20) No commenters disagreed with the proposal. The intent of the damping is to address fluctuations associated with turbulence that would have a frequency so high that they would not be captured with a system with a 5 second response time. In the absence of more explanation regarding why the 5 second response is insufficient, DOE maintains this value for the damping allowance and, due to the absence of dissenting comments, DOE adopts this revision in the test procedure.

17. Clarify Inputs for the Demand Defrost Credit Equation

In the June 2010 NOPR, DOE proposed language in the test procedure to clarify that manufacturers must assign $\Delta\tau_{def}$ (the greater of the time in hours between defrost terminations and 1.5) the value of 6 hours if this limit is reached during a frost accumulation test and the heat pump has not completed a defrost cycle. A sentence was also proposed to be added in section 3.9.2 of Appendix M to indicate that the manufacturer must use a value of $\Delta\tau_{max}$, that is either the maximum time between defrosts as allowed by the controls (in hours) or 12, whichever is less. 75 FR at 31237 (June 2, 2010). In the proposal of the November 2015 SNOPR, this was changed to indicate that the value would be as provided in the installation manuals shipped with the unit. 80 FR at 69373 (Nov. 9, 2016).

AHRI supported DOE's proposal to clarify inputs to the demand defrost credit equation with the understanding that HSPF values would not be affected by such clarifications. (AHRI, No. 6 at p. 4) Ingersoll Rand stated that the facts do not support AHRI's understanding as there are significant numbers of heat pumps for which the reduction of the maximum permissible test duration from 12 to 6 hours would decrease the calculated HSPF. Ingersoll Rand further commented that reducing max duration of frost accumulation tests from 12 hours to 6 hours and eliminating the

short-cut method for determining SEER would reduce the rated performance of AC/HP, which would be an adverse situation for manufacturers. Ingersoll Rand commented that this would require re-rating of units that are above 13 SEER and un-rating units that are at 13 SEER. (Ingersoll Rand, No. 10 at p. 1)

As noted in the June 2010 SNOPR, for most two-capacity and variable-speed heat pumps the proposal for the 6-hour limit reduces manufacturer test burden when defrost does not occur. DOE believes that when defrost does occur, the proposal has a negligible impact on the calculation of the average heating capacity and power consumption at a 35 °F outdoor temperature. Shortening the maximum duration of the frost accumulation test affects heat pumps that would otherwise conduct a defrost after 6 but before 12 hours in two ways. First, such heat pumps benefit slightly from not having a defrost cycle factored into their average heating capacity calculation. Second, they earn a higher demand defrost credit than they would have earned previously. As a worst case (*e.g.,* unit's demand defrost controls actuate at 11.999 hours while the unit's maximum duration is 12 hours or more), the approximated demand defrost credit is now 1.017 compared to the ''true'' value of 1.000. 75 FR 31223, 31236–37 (June 2, 2010). The HSPF is directly proportional to the demand defrost credit factor (see Equation 4.2–1 of Appendix M), hence, this would represent a 1.7 percent increase in HSPF. Ingersoll Rand did not provide any justification for why it did not agree with DOE's analysis regarding the impact of the change. Therefore, DOE adopts this revision in the test procedure.

18. Improving Test Consistency Associated With Indoor Unit Air Inlet Geometry

Ingersoll Rand commented that the range of inlet geometries allowed by the DOE test procedure for ducted units may lead to different test results, specifically different measurements of static pressure and (for blower coil and single-package units) fan input power, depending on what specific inlet geometry is selected for conducting a test. They recommended that DOE adopt the short duct minimal requirement described in the draft version of AHRI 210/240–2015. (Ingersoll Rand, No. 65 at p. 6–10)

DOE first reviewed the inlet configurations that Ingersoll Rand evaluated and claimed are all compliant with the DOE inlet equipment connection requirements. DOE does not agree that the current test procedure allows Configuration #7, in which the inlet plenum for measurement of inlet static pressure is upstream of the damper box. Section 2.5.1.1 of the current test procedure states, ''install the inlet damper box upstream of the inlet plenum.'' This was proposed to be modified in the November 2015 SNOPR to read, ''Install the airflow prevention device upstream of the inlet plenum . . .''. Configuration #7 is inconsistent with both descriptions. DOE notes that the greatest deviation in static pressure measurements presented by Ingersoll Rand is associated with Configuration #1, in which there is neither an inlet plenum nor a damper box, and the inlet static pressure simply measures room pressure. In this case, the measured inlet static pressure would generally be higher than measured using an inlet plenum, because part of the static pressure within the room is converted to inlet velocity pressure as the room air is accelerated towards the unit's inlet. DOE agrees that for consistency it would be beneficial to avoid Configuration #1 in testing. Hence, the final rule established in today's notice does not allow use of this arrangement. DOE believes that most units will be tested with damper boxes (or other airflow prevention devices) in order to conduct the cyclic test, because of the measured performance improvement associated with use of the measured cyclic degradation coefficient, which is often less than the default coefficient that can be used if the cyclic test is not conducted. Hence, DOE does not believe that many, if any, tests are conducted using Configuration #1. Thus, adopting this change should ensure test consistency with inconsequential impact on test burden.

Responding to potential misinterpretation of the requirements for air inlet geometry (*e.g.* regarding Configuration #7 discussed above), DOE made some clarifying revisions in this final rule that were not part of the proposals in the NOPR or SNOPRs. The revisions include, (a) rearranging the text of section 2.4.2 regarding the inlet plenum for the indoor unit, (b) clarifying that figures 7b and 7c of ANSI/ASHRAE 37–2009 are for blower coil indoor units or single-package units while figure 8 is for coil-only units, and (c) clarifying that when an inlet plenum is not used that the length of straight duct upstream of the unit's inlet within the airflow prevention device must still adhere to the inlet plenum length requirements, as illustrated in ANSI/ASHRAE 37–2009, figures 7b, 7c, and 8.

F. Clarification of Test Procedure Provisions

This section discusses clarifications to the test procedure to address test procedure provisions that may lack sufficient specificity to ensure reproducibility. None of the clarifications listed in this section would alter the average measured energy consumption of a representative set of models.

1. Manufacturer Consultation

In the November 2015 SNOPR, DOE proposed to clarify the test procedure provisions regarding the specifications for refrigerant charging prior to testing, with input on certain details from the AHRI 210/240-Draft, as discussed in section III.E.15. Specifically, DOE proposed to remove the current test procedure's allowance for contacting the manufacturer to receive charging instructions. In instances where multiple sets of instructions are specified or are included with the unit and the instructions are unclear on which set to test with, DOE proposed the use of field installation criteria. 80 FR 69278, 69313 (Nov. 9, 2015).

ADP and Lennox commented that before using standard sub-cooling and superheat values, the test facility should contact the manufacturer to obtain instructions in cases where they have been misplaced, and in all cases the test facility should contact the manufacturer to request the latest version of the installation instructions. ADP and Lennox commented that given the level of inventory in the industry, testing an off-the-shelf unit solely based on the installation instructions in the box with the unit could result in outdated instructions being used. (ADP, No. 59 at p. 10; Lennox, No. 61 at p. 17–18)

After reviewing these comments, DOE maintains that it is not necessary to contact the manufacturer for the latest refrigerant charging requirements, and that the instructions provided with the unit should be used as the unit should have been certified by the manufacturer as compliant with the information provided with the unit. Therefore, DOE has adopted this provision in the final rule.

In the November 2015 SNOPR, DOE also proposed to revise language proposed in previous NOPRs regarding the metering of low-voltage transformers to eliminate the need for communication between third party test laboratories and manufacturers. 80 FR 69278, 69313 (Nov. 9, 2015). No comments were received on this proposal, and DOE adopts this provision in the final rule.

DOE also proposed to require manufacturers to report on their certification report whether the test was conducted with or without an inlet plenum installed in order to eliminate the need for the test laboratory to confirm this with the manufacturer. 80 FR 69278, 69313 (Nov. 9, 2015).

In response, AHRI, Nortek commented that it is burdensome and unnecessary to submit this data. (AHRI, No. 70 at p. 14; Nortek, No. 58 at p. 11) ADP, Unico, and Ingersoll Rand commented that they agreed with AHRI on this matter. (ADP, No. 59 at p. 7; Unico, No. 63 at p. 6; Ingersoll Rand, No. 65 at p. 12) JCI, UTC/Carrier, Lennox, and Mitsubishi commented generally that additional reporting requirements impose an unnecessary burden on manufacturers, which is discussed in section III.A.5. (JCI, No. 66 at p. 12; UTC/Carrier, No. 62 at p. 7; Lennox, No. 61 at pp. 14–15; Mitsubishi, No. 68 at pp. 1–2)

As discussed in section III.E.18, DOE has modified the test procedure to require the use of an inlet plenum or an inlet airflow prevention device that also provides the function of an inlet plenum, for ducted split-system or single-package units. Hence, this reporting requirement is not needed and DOE has removed it in the final rule.

DOE proposed to amend references in the test procedure to test setup instructions or manufacturer specifications by specifying that these refer to the test setup instructions included with the unit. DOE proposed to implement this change in the following sections: 2.2.2, 3.1.4.2(c), 3.1.4.4.2(c), 3.1.4.5(d), and 3.5.1(b)(3). 80 FR 69278, 69313 (Nov. 9, 2015). No comments were received on this proposal, and DOE adopts this provision in the final rule.

2. Incorporation by Reference of AHRI 1230–2010

ANSI/AHRI Standard 1230–2010 ''Performance Rating of Variable Refrigerant Flow (VFR) Multi-Split Air-Conditioning and Heat Pump Equipment'' with Addendum 2 (AHRI 1230–2010) prescribes test requirements for both consumer and commercial variable refrigerant flow multi-split systems. In the November 2015 SNOPR, DOE proposed to incorporate by reference the sections of AHRI 1230–2010 that are relevant to consumer variable refrigerant flow multi-split systems (namely, sections 3 (except 3.8, 3.9, 3.13, 3.14, 3.15, 3.16, 3.23, 3.24, 3.26, 3.27, 3.28, 3.29, 3.30, and 3.31), 5.1.3, 5.1.4, 6.1.5 (except Table 8), 6.1.6, and 6.2) into the existing test procedure for central air conditioners and heat pumps at Appendix M to Subpart B of 10 CFR part 430. 80 FR 69278, 69313 (Nov. 9, 2015).

In response to this proposal, JCI, AHRI, Nortek, Unico, Mitsubishi and Rheem supported applying AHRI 1230 for VRF testing. (JCI, No. 66 at p. 20; AHRI, No. 70 at p. 17; Nortek, No. 58 at p. 14; Unico, No. 63 at p. 12; Mitsubishi, No. 68 at p. 4; Rheem, No. 69 at p. 15) In contrast, Goodman commented that all products in the residential market should be tested using the same test procedure, and suggested multi-split air conditioners should be tested via AHRI 210/240. (Goodman, No. 73 at p. 15–16) As virtually all commenters support the use of the industry test procedure AHRI 1230 for multi-split air conditioners, DOE incorporates by reference certain sections of AHRI 1230–2010 as proposed.

DOE also proposed to define the terms ''Multiple-split (or multi-split) system'', ''Small-duct, high-velocity system'', ''Tested combination'', ''Variable refrigerant flow system'' and ''Variable-speed compressor system'' in its list of definitions in Appendix M to Subpart B of 10 CFR part 430. 80 FR 69278, 69313 (Nov. 9, 2015).

Regarding tested combination, AHRI had requested in response to the June 2010 NOPR that DOE use the ''tested combination'' definition in AHRI 1230–2010 (the definition appears in section 3.26 of this standard). (AHRI, No. 6 at pp. 1–2) In the November 2015 SNOPR, DOE proposed a definition which is nearly identical to the AHRI 1230–2010 definition, except that (a) the AHRI definition allows a maximum of 12 indoor units in the tested combination—the DOE proposal calls for up to five indoor units, (b) the DOE proposal allows use of an indoor unit model family other than the highest sales volume family if the 95 percent capacity threshold cannot be met with units of the highest sales volume family, and (c) DOE's proposal provided clarification of what is meant by indoor unit nominal capacity. 80 FR at 69313–14 (Nov. 9, 2015). Commenters did not specifically address these provisions in their comments regarding the November 2015 SNOPR, and hence the final rule adopts them.

In addition, both AHRI and Mitsubishi had commented in response to the June 2010 NOPR that DOE should remove the requirement to turn off one of the indoor units when testing at minimum compressor speed. (AHRI, No. 6 at p. 2, Mitsubishi, No. 12 at p. 1) DOE established this test requirement for multi-split systems in a final rule published October 22, 2007. 72 FR 59906–59909. DOE had initially considered a more aggressive approach in the October 2007 Final Rule for turning off indoor units at part load in which the number of operating units would be proportional to the load level, but settled instead on turning off just one unit for minimum compressor speed. *Id.* at 59909. Multi-split systems have indoor units that respond individually to separate thermostats. The outdoor units are designed to operate when one or more of the indoor units are not operating. It certainly would be expected that, for a large percentage of the time that such a unit operates at minimum compressor speed, at least one of the indoor units would have cycled off. The test approach suggested by AHRI and Mitsubishi is more consistent with the operation of multi-head mini-split systems, for which all of the indoor units operate in unison in response to a single thermostat, rather than the operation of multi-split systems—for such systems, all indoor units would always be operating when the outdoor unit is at minimum compressor speed. DOE is not aware of any field test information that shows that all of the indoor units of a multi-split system continue to operate when the compressor is at minimum speed. Hence, DOE is maintaining the requirement to turn off one indoor unit for the minimum-speed tests.

Finally, Mitsubishi had also commented, in response to the June 2010 NOPR, that the 50% requirement be waived for multi-split systems with cooling capacity less than 24,000 Btu/h, and that the 95% to 105% capacity requirement for match between indoor and outdoor nominal capacities be considered a guideline rather than a requirement. (AHRI, No. 6 at p. 2, Mitsubishi, No. 12 at pp. 1–2) The 50% requirement (*i.e.* that none of the indoor units of the tested combination have a nominal cooling capacity greater than 50% of the outdoor unit's nominal cooling capacity) has been adopted by DOE. DOE will not adopt the latter recommendation, since it would essentially eliminate any requirement for capacity matching, but has instead increased the flexibility of the requirements by allowing use of model families of indoor units other than the highest sales volume model family, if all of the tested combination requirements cannot be met by the highest sales volume family.[18] DOE notes that it has clarified this allowance in this final

[18] Examples of model families include configurations such as mid-range static ducted, high-static ducted, wall-mount, ceiling-mount 4-way cassette, ceiling-mount 2-way cassette, etc.

rule—whereas the proposed wording referenced inability to meet the 95% capacity threshold as the basis for considering other model families, the allowance in this final rule explicitly states that if all the requirements for ''tested combination'' cannot be met by indoor units selected from the highest sales volume model family, that one or more indoor units could be selected from a different sales model family.

Comments received regarding the term ''multiple-split system'' are discussed in section III.F.5. DOE did not receive comments on the other definitions and adopts them as proposed.

In the November 2015 SNOPR, DOE also proposed to omit Table 8 of AHRI 1230–2010 from the IBR into Appendix M and to set minimum ESP requirements for systems with short-run ducted indoor units in Table 3 of Appendix M as follows: 0.03 in. w.c. for units less than 28,800 Btu/h; 0.05 in. w.c. for units between 29,000 Btu/h and 42,500 Btu/h; and 0.07 in. w.c. for units greater than 43,000 Btu/h. Furthermore, DOE proposed to define the term ''short duct systems,'' to refer to ducted systems whose indoor units can deliver no more than 0.07 in. w.c. ESP when delivering the full load air volume rate for cooling operation. 80 FR 69278, 69314 (Nov. 9, 2015).

DOE received several comments in response to its proposal related to short duct systems and the required ESP. However, the CAC/HP ECS Working Group included recommendations to DOE regarding definitions and ESP for low-static and mid-static units rather than short duct systems. (Docket No. EERE–2014–BT–STD–0048, No. 76 at p. 1–2) Therefore, in this final rule, DOE is not adopting a definition or ESP requirement for short duct systems and will consider changes to the ESP for certain kinds of systems in a separate notice.

3. Replacement of the Informative Guidance Table for Using the Federal Test Procedure

In the November 2015 SNOPR, DOE proposed replacing the set of four tables at the beginning of ''Section 2, Testing Conditions'' of the current test procedure (10 CFR part 430, subpart B, Appendix M) with a more concise table to provide guidance to manufacturers regarding testing conditions, testing procedures, and calculations appropriate to a product class, system configuration, modulating capability, and special features of products. 80 FR 69278, 69314 (Nov. 9, 2015).

JCI commented the tables provide adequate clarity but that the table would be more viewable if placed in a portrait view. (JCI, No. 66 at p, 20–21). UTC/Carrier responded that they would like any clarity DOE can provide. (UTC/Carrier, No. 62 at p. 19) Rheem expressed the preference of the current table over the proposed table in the November 2015 SNOPR and suggested that DOE further clarify the proposed table, including adding a title and explanation of how it should be used. Rheem also pointed out a possible error under testing conditions for single-split-system coil-only. (Rheem, No. 69 at p.16).

Given the general consensus on the proposed table, DOE is adopting the format of the proposed table in this final rule with some clarification. DOE found it difficult to fit the eight columns within the table in the portrait view suggested by JCI, and maintains the landscape format. In response to Rheem, the proposed table is titled ''Informative Guidance for Using Appendix M'' and an explanation of how it should be used is given in section 2 (B) of this final rule notice. DOE conducted further review and revision to the proposed table to clarify the sections each test should refer to, including fixing the identified error on single-split-system coil-only test conditions.

4. Clarifying the Definition of a Mini-Split System

In the November 2015 SNOPR, DOE proposed deleting the definition of mini-split air conditioners and heat pumps, and adding two definitions for: (1) single-zone-multiple-coil split system, representing a split system that has one outdoor unit and that has two or more coil-only or blower coil indoor units connected with a single refrigeration circuit, where the indoor units operate in unison in response to a single indoor thermostat; and (2) single-split system, representing a split system that has one outdoor unit and that has one coil-only or blower coil indoor unit connected to its other component(s) with a single refrigeration circuit. 80 FR 69278, 69314 (Nov. 9, 2015).

ADP, Lennox, and UTC/Carrier supported DOE's proposal. (ADP, No. 59 at p. 12; Lennox, No. 61 at p. 19; UTC/Carrier, No. 62 at p. 20)

AHRI and Nortek proposed modifying the current definition to reflect common terminology used in the field. (AHRI, No. 70 at p. 17–18; Nortek, No. 58 at p. 14) AHRI and Mitsubishi recommended the terminology and definitions be revised as follows: (1) single head mini-split system, representing split systems that have a single outdoor section and one indoor section, where the indoor section cycles on and off in unison in response to a single indoor thermostat; and (2) multi head mini-split system, representing split systems that have a single outdoor section and more than one indoor sections, where the indoor sections cycle on and off in unison in response to a single indoor thermostat. (AHRI, No. 70 at p. 17–18; Mitsubishi, No. 68 at p. 4)

Goodman commented that they do not support the terminology of ''single-zone-multiple-coil split system'' and that there is no need to separate a one-to-one split system and a one-to-multiple split system. However, Goodman also suggested using the terms single-head mini-split and multi-head mini-split if DOE desires to separate the definition of mini-split into two categories. (Goodman, No. 73 at p. 7)

Mitsubishi also specifically recommended that the references to ''coil-only'' be removed since Appendix M does not permit the matching of a variable speed outdoor unit with a coil without a blower that can match the airflow required for each of the tests. (Mitsubishi, No. 68 at p. 4)

In response to the recommended terminology from AHRI, Nortek, Mitsubishi, and Goodman, DOE is adopting the term ''multi-head mini-split system'' in the regulatory text rather than the proposed ''single-zone multiple-coil system.'' However, DOE believes it is important to specify that this system has a single refrigerant circuit, which is not part of the definition proposed by AHRI and Mitsubishi. In response to Mitsubishi, DOE has removed ''coil-only'' from the definition but cautions that this does not mean that the definition does not include systems with coil-only indoor units. DOE notes that the definition is not explicitly limited to variable-speed units, although DOE is aware that most of not all commercially available units that fit the definition have variable-speed compressors. For these reasons, DOE adopts the following definition for ''multi-head mini-split system'':

Multi-head mini-split system means a split system that has one outdoor unit and that has two or more indoor units connected with a single refrigeration circuit. The indoor units operate in unison in response to a single indoor thermostat.

DOE is adopting the definition for single-split system as proposed in the SNOPR. DOE is not adopting a definition for ''single-head mini-split,'' as this variety of unit is included in the ''single-split system'' definition and there are no different test procedure requirements or energy conservation standard levels that would require

establishing a separate definition to distinguish these products.

5. Clarifying the Definition of a Multi-Split System

In the November 2015 SNOPR, DOE proposed to clarify the definition of multi-split system to specify that multi-split systems are to have only one outdoor unit. (DOE notes that it proposed to separately define multi-circuit units as units that incorporate multiple outdoor units into the same package. This is discussed in section III.C.1.) DOE also proposed to clarify that if a model of outdoor unit could be used both for single-zone-multiple-coil split systems (multi-head mini-split systems) and for multi-split systems, it should be tested as a multi-split system. 80 FR 69278, 69315 (Nov. 9, 2015).

In response, the California IOUs stated that the proposed definition was unclear and recommended the following definition: A multiple zone, multiple coil, split system is a split system with one outdoor unit and at least two coil-only or blower coil indoor units which operate separately as required to provide comfort in the zone each serves. (California IOUs, No. 67 at p. 6). DOE received no other comments on this issue.

The multi-split system definition suggested by California IOUs does not specify that the outdoor units and the indoor units are within a single refrigerant circuit, and therefore multi-circuit systems, which are tested differently, would fit in this definition. In order to preserve the distinction between multi-split and multi-circuit products, DOE adopts the proposed multi-split system definition from the November 2015 SNOPR, which clarifies that for multi-split systems all components are connected with a single refrigerant circuit.

6. Clarifying the Housing for Uncased Coil

The current test procedure provides instructions for installing uncased coil indoor units, indicating that an enclosure be provided for them using 1 in. fiberglass ductboard (see Appendix M, section 2.2.c). DOE is aware of issues associated with the use of fiberglass ductboard, as its lack of rigidity can present challenges in maintaining tight seals where it connects to upstream and downstream ducts used in the test set-up. DOE also notes that the requirements of section 2.2.c regarding both the ductboard and its installation are unnecessarily limited in the approaches listed for fabricating an enclosure for the test. DOE is aware that test laboratories fabricate enclosures for testing uncased coils that consist of materials other than just the listed fiberboard or alternative insulation. DOE also understands that the term ''fiberboard'' is not sufficiently descriptive to assure that a foil-faced fiberboard be used, which would be consistent with the expectation that such a casing provide a barrier to both air flow and water vapor transmission. As a result, DOE is clarifying these instructions with additional language in this final rule regarding the installation of uncased coils, including (a) indicating that the ductboard must be foil-faced, (b) allowing alternative housings, consisting of sheet metal or similar material and separate insulation, and (c) indicating that sizing and installation of the casing should be done as described in the installation instructions shipped with the unit. These clarifications are consistent with DOE's proposal in the November 2015 SNOPR and its understanding and expectations of how these tests are being conducted and should be conducted. Although most ductboard material is foil-faced, DOE has clarified that alternative materials claimed to be ductboard should not be used—without the foil facing, the ductboard would not present a sufficient barrier to vapor and air penetration. These alternative housing materials (*i.e.* alternatives to foil-faced fiberboard) will allow for more rigid construction of the coil housing. Finally, DOE recognizes that details regarding the fabrication and installation of the housing may affect test results and hence clarifies that they should be performed as described in installation instructions shipped with the unit. These changes would not affect any tests being conducted consistent with existing requirements (*e.g.* for negligible air leakage and installation according to shipped instructions.) but are intended to clarify set-up procedures to enhance consistency of testing.

7. Test Procedure Reprint

DOE has reprinted the entirety of Appendix M to 10 CFR part 430 Subpart B in the regulatory text for this final rule to improve clarity regarding the revisions established by this final rule. Table III.6 lists proposals from the previous notices that appear in this regulatory text reprint, and provides reference to the respective revised section(s) in the regulatory text.

TABLE III.6.—TEST PROCEDURE AMENDMENTS ADOPTED IN THIS FINAL RULE

[By original proposal]

Section	Proposal to . . .	Reference	Preamble discussion	Regulatory text location *
	June 2010 NOPR			
A.7	Add Calculations for Sensible Heat Ratio	75 FR 31229	III.G.1	3.3c, 4.5.
A.9	Modify Definition of Tested Combination	75 FR 31230	III.F.2	10 CFR 430.2 Definitions.
A.10	Add Definitions Terms Regarding Standby Power	75 FR 31231	None	Definitions.
B.1	Modify the Definition of ''Tested Combination''	75 FR 31231	III.F.2	10 CFR 430.2 Definitions.
B.3	Clarify That Optional Tests May Be Conducted Without Forfeiting Use of the Default Value(s).	75 FR 31233	III.E.11	3.2.1, 3.2.2.1, 3.2.3
B.4	Allow a Wider Tolerance on Air Volume Rate To Yield More Repeatable Laboratory Setups.	75 FR 31233	III.E.1	3.1.4.1.1a.4(ii)
B.5	Change the Magnitude of the Test Operating Tolerance Specified for the External Resistance to Airflow.	75 FR 31234	III.E.17	3.3d Table, 3.5h Table, 3.7a Table, 3.8.1 Table, 3.9f Table.
	Change the Magnitude of the Test Operating Tolerance Specified for the Nozzle Pressure Drop.	75 FR 31234	III.E.17	3.3d Table, 3.5h Table, 3.7a Table, 3.8.1 Table.
B.6	Modify Refrigerant Charging Procedures: Disallow Charge Manipulation after the Initial Charge.	75 FR 31234	III.E.7	2.2.5.
B.7	Require All Tests be Performed with the Same Refrigerant Charge Amount.	75 FR 31235, 31250	III.F.1	2.2.5.8.
	When Determining the Cyclic Degradation Coefficient C_D, Correct the Indoor-Side Temperature Sensors Used During the Cyclic Test To Align With the Temperature Sensors Used During the Companion Steady-State Test, If Applicable: Equation.	75 FR 31235	III.E.11	3.4c, 3.5i, 3.7e, 3.8

TABLE III.6.—TEST PROCEDURE AMENDMENTS ADOPTED IN THIS FINAL RULE—Continued

[By original proposal]

Section	Proposal to . . .	Reference	Preamble discussion	Regulatory text location *
B.8	When Determining the Cyclic Degradation Coefficient C_D, Correct the Indoor-Side Temperature Sensors Used During the Cyclic Test To Align With the Temperature Sensors Used During the Companion Steady-State Test, If Applicable: Sampling Rate.	75 FR 31236	None	3.3b, 3.7a, 3.9e, 3.11.1.1, 3.11.1.3, 3.11.2a.
B.9	Clarify Inputs for the Demand Defrost Credit Equation	75 FR 31236	III.E.17	3.9.2a.
B.10	Add Calculations for Sensible Heat Ratio	75 FR 31237	III.G.1	3.3c, 4.5.
B.11	Incorporate Changes To Cover Testing and Rating of Ducted Systems Having More Than One Indoor Blower.	75 FR 31237	III.C.3	2.2.3, 2.2.3b, 2.4.1b, 3.1.4.1.1d, 3.1.4.2e, 3.1.4.4.2d, 3.1.4.5.2f, 3.2.2, 3.2.2.1, 3.6.2, 3.2.6, 3.6.7, 4.1.5, 4.1.5.1, 4.1.5.2, 4.2.7, 4.2.7.1, 4.2.7.2, 3.2.2.2 Table, 3.6.2 Table.
B.12	Add Changes To Cover Triple-Capacity, Northern Heat Pumps	75 FR 31238	III.C.4	3.6.6, 4.2.6.
B.13	Specify Requirements for the Low-Voltage Transformer Used When Testing for Off-Mode Power Consumption.	75 FR 31238	III.F.1	2.2d.
B.14	Add Testing Procedures and Calculations for Off Mode Power Consumption.	75 FR 31238	III.D	Definitions, 3.13, 4.3.
B.17	Update Test Procedure References	75 FR 31243	III.E.12	*10 CFR 430.3* Definitions.
April 2011 SNOPR				
III.A	Revise Test Methods and Calculations for Off-Mode Power and Energy Consumption.	76 FR 18107	III.D	Definitions, 3.13, 4.3.
III.B	Revise Requirements for Selecting the Low-Voltage Transformer Used During Off-Mode Test(s).	76 FR 18109	III.F.1	2.2d.
III.D	Add Calculation of the Energy Efficiency Ratio for Cooling Mode Steady-State Tests.	76 FR 18111	None	4.7.
III.E	Revise Off-Mode Performance Ratings	75 FR 31238	III.D	Definitions, 3.13, 4.3.
October 2011 SNOPR				
III.A	Reduce Testing Burden and Complexity	76 FR 65618	III.D	Definitions, 3.13, 4.3.
III.C	Add Definition for Shoulder Season	76 FR 65620	III.D	Definitions.
III.D	Revise Test Methods and Calculations for Off-Mode Power and Energy Consumption.	76 FR 65620	III.D	Definitions, 3.13, 4.3.
III.D.1	Add Provisions for Large Tonnage Systems	76 FR 65621	III.D	Definitions, 3.13, 4.3.
III.D.2	Add Requirements for Multi-Compressor Systems	76 FR 65622	III.D	Definitions, 3.13.
November 2015 SNOPR				
III.A.1	Basic Model Definition	80 FR 69282	III.A.1	430.2.
III.A.2	Additional Definitions	80 FR 69284	III.A.2	430.2.
III.A.3	Determination of Certified Rating	80 FR 69285	III.A.3	429.16, 1.2.
III.A.4	Compliance with Federal (National or Regional) Standards	80 FR 69289	III.A.4	429.16(a).
III.A.5	Certification Reports	80 FR 69290	III.A.5	429.16(c).
III.A.6	Represented Values	80 FR 69291	III.A.6	429.16(a), 430.23.
III.A.7	Product-Specific Enforcement Provisions	80 FR 69292	III.A.7	429.134.
III.B.1	AEDM General Background	80 FR 69292	III.B.1	429.70(e).
III.B.2	AED< Terminology	80 FR 69292	III.B.2	429.70(e).
III.B.3	Elimination of the ARM Pre-Approval Requirement	80 FR 69293	III.B.3	
III.B.4	AEDM Validation	80 FR 69294	III.B.4	429.70(e)(2).
III.B.5	AEDM Requirements for Independent Coil Manufacturers	80 FR 69296	III.B.5	429.16.
III.B.6	AEDM Verification Testing	80 FR 69296	III.B.6	429.104, 429.70(e)(5).
III.B.7	Failure to Meet Certified Ratings	80 FR 69297	III.B.7	429.70(e)(5)(iv).
III.B.8	Action Following a Determination of Noncompliance	80 FR 69297	III.B.8	429.110, 429.70.
III.C.2	Termination of Waivers Pertaining to Multi-Circuit Products	80 FR 69299	III.C.2	429.16(a)(1)(ii)(A), 2.4.1b.
III.C.3	Termination of Waiver and Clarification of the Test Procedure Pertaining to Multi-Blower Products.	80 FR 69299	III.C.3	3.1.4.1.1.d, 3.1.4.2.e.
III.D.1	Off-Mode Test Temperatures	80 FR 69300	III.D.1	3.13.2.b.
III.D.2	Off-Mode Calculation and Weighting of P1 and P2	80 FR 69301	III.D.2	3.13.1, 4.3.
III.D.3	Off-Mode: Products with Large, Multiple or Modulated Compressors.	80 FR 69302	III.D.2	3.13.1.e, 3.13.2.g.
III.D.4	Off-Mode: Procedure for Measuring Low-Voltage Component Power.	80 FR 69302	III.D.7	3.13.1.c, 3.13.1.d, 3.13.2.c, 3.13.2.e, 3.13.2.f.
III.D.5	Off-Mode: Revision of Off-Mode Power Consumption Equations	80 FR 69302	III.D.7	3.13.1.e, 3.13.1.f, 3.13.2.g, 3.13.2.h.
III.D.6	Off-Mode Power Consumption for Split Systems	80 FR 69303	III.D.7	3.13.1, 3.13.2.
III.D.8	Test Metric for Off-Mode Power Consumption	80 FR 69304	III.D.3	429.16(a).
III.E.1	Indoor Fan Speed Settings	80 FR 69305	III.E.1	Table 2, 2.3.1.a, 3.1.4.1.1, 3.3(d).
III.E.2	Requirements for the Refrigerant Lines and Mass Flow Meter	80 FR 69306	III.E.3	2.2(a), 2.10.3.
III.E.3	Outdoor Room Temperature Variation	80 FR 69306	III.E.4	2.5, 2.11.b, 3.1.8.
III.E.4	Method of Measuring Inlet Air Temperature on the Outdoor Side.	80 FR 69307	III.E.5	2.11.b.
III.E.5	Requirements for the Air Sampling Device	80 FR 69307	III.E.6	2.5, 2.11.
III.E.6	Variation in Maximum Compressor Speed with Outdoor Temperature.	80 FR 69307	III.E.7	3.2.4, 3.6.4, 4.1.4, 4.2.4.
III.E.7	Refrigerant Charging Requirements	80 FR 69307	III.E.8	2.2.5.8.
III.E.8	Alternative Arrangement for Thermal Loss Prevention for Cyclic Tests.	80 FR 69308	III.E.9	2.5(c).
III.E.9	Test Unit Voltage Supply	80 FR 69309	III.E.10	2.7.
III.E.10	Coefficient of Cyclic Degradation	80 FR 69309	III.E.11	3.2.1, 3.2.2, 3.2.3, 3.2.4, 3.5, 3.6, 3.8.

TABLE III.6.—TEST PROCEDURE AMENDMENTS ADOPTED IN THIS FINAL RULE—Continued
[By original proposal]

Section	Proposal to . . .	Reference	Preamble discussion	Regulatory text location *
III.E.11	Break-in Periods Prior to Testing	80 FR 69309	III.E.12	3.1.7.
III.E.12	Industry Standards that are Incorporated by Reference	80 FR 69310	III.E.13	430.3.
III.E.13	Withdrawing References to ASHRAE 116–1995 (RA 2005)	80 FR 69311	III.E.14	
III.E.14	Additional Changes Based on AHRI 210/240-Draft	80 FR 69311	III.E.15	Table 2, 2.2.5.4.a, 2.2.5.5, 2.3.1.a, 2.4.2, 2.5, 2.11, 3.1.3.1, 3.1.4.1.1, 3.1.5, 3.3(d).
III.E.15	Damping Pressure Transducer Signals	80 FR 69312	III.E.16	2.6(a).
III.F.1	Manufacturer Consultation	80 FR 69313	III.F.1	2.2.5, 2.4.2, 2.2.2, 3.1.4.2(c), 3.1.4.4.2(c), 3.1.4.5(d), 3.5.1(b)(3).
III.F.2	Incorporation by Reference of AHRI 1230–2010	80 FR 69313	III.F.2	1, 3.12, 2.2.a, 2.2.b, 2.2.c, 2.2.1, 2.2.2, 2.2.3(a), 2.2.3(c), 2.2.4, 2.2.5, 2.4–2.12, Table 3, section 3.1 (except sections 3.1.3, 3.1.4), 3.3, 3.4, 3.5, 3.7–3.10, 3.13, 4.
III.F.3	Replacement of the Informative Guidance Table for Using the Federal Test Procedure.	80 FR 69314	III.F.3	Table 1.
III.F.4	Clarifying the Definition of a Mini-Split System	80 FR 69314	III.F.4	1.2.
III.F.5	Clarifying the Definition of a Multi-Split System	80 FR 69315	III.F.5	1.2.

* Section numbers in this column refer to the Appendix M test procedure finalized in this notice.

G. Additional Comments From Interested Parties

This section discusses additional comments made by interested parties during this rulemaking that were unrelated to any of DOE's proposals.

1. Wet Coil Performance

NREL requested DOE require reporting of latent load or amount of water condensation removal at each test condition to be able to compare equipment performance between dry and humid regions. NREL also recommend adding two new cooling-mode test conditions to provide better representation of performance in hot dry regions and three new test cooling-mode conditions for hot humid regions. (NREL, No. 14 at p. 1)

In the June 2010 NOPR DOE proposed to add a calculation of the sensible heat ratio (SHR) to its test procedure to provide consumers and their contractors with more information to allow them to make more informed decisions regarding product selections. 75 FR 31223, 31237 (June 2, 2010). In response, UTC/Carrier and JCI noted in its comments that SHR is currently provided in manufacturer's product data. (UTC/Carrier, No. 62 at p. 7; JCI, No. 66 at p. 12). In this final rule, DOE agrees that SHR was intended to be provided in manufacturer literature and has not adopted the November 2015 SNOPR proposal to require SHR be reported to DOE (see Section III.A.5) The latent load and water condensate rate can be calculated based on the SHR in manufacturers' product literature and the rated cooling capacity, which should provide sufficient representation of wet coil performance.

The DOE test procedure requires units to be tested at 80 °F dry bulb temperature and 67 °F wet bulb temperature during wet-coil cooling test to represent typical indoor conditions. DOE does not disagree that the additional test points proposed by NREL would provide additional representation of performance in hot dry and hot humid regions. However, requiring those additional tests would impose significant test burden on manufacturers. Currently, for a single-capacity air-conditioner, a manufacturer must conduct four tests and generally conducts in addition the dry and cyclic tests. Adding five tests would roughly double the test time for these units. It is not clear how the five additional tests recommended by NREL would improve the accuracy or field-representativeness of the measurements of SEER or EER. Hence, DOE has determined not to include these test points in the test procedure.

2. Barometric Pressure Correction

AHRI and JCI proposed that DOE implement a barometric pressure correction specification for testing. They suggested that barometric pressure be corrected to the altitude where the mean of the U.S. population lives. (AHRI, No. 70 at p. 13; JCI, No. 66 at p. 11) JCI suggested addressing barometric pressure by maintaining the enthalpy or humidity ratio of the entering air, indicating that this has been used effectively for lab correlation. (JCI, No. 66 at p. 11)

DOE has noted the industry's concern regarding the impact of barometric pressure on the repeatability of tests and represented values. Currently, there is no systematic data to demonstrate the effect of barometric pressure on unit performance. However, JCI did not describe in sufficient detail how the correlation it proposed would work, nor provide data showing that it properly addresses the barometric pressure issue.

DOE also notes that there has not been a study leading to selection of a standard altitude or pressure level. DOE is not adopting a barometric pressure correction in this final rule because an approach for addressing it has not been described in sufficient detail nor shown to provide the correct adjustment for pressure changes.

3. Inlet Screen

DOE proposed in the November 2015 SNOPR the use of a screen downstream of the air mixer in the outlet of the indoor unit if necessary to improve temperature uniformity. 80 FR at 69278, 69353 (Nov. 9, 2015). Ingersoll Rand commented that inlet and outlet screens on the indoor unit air stream will impose pressure drop, potentially requiring an increase in the code tester fan motor size. The code tester is the airflow measuring apparatus as discussed in section 2.6 of Appendix M. They also recommended that regardless of whether the cyclic test is carried out, the measured performance should be equivalent to the no damper test setup. (Ingersoll Rand, No. 65 at p. 5–6) DOE notes that the proposal included no requirement for an inlet screen, and that the screen in the outlet is an option to help meet the temperature uniformity requirements, but is not required if other means are sufficient to attain uniformity. Further, requirement for temperature uniformity for the outlet temperature measurement applies whether or not an outlet damper box is used, *i.e.*, to conduct a cyclic test. DOE has made no changes in response to the Ingersoll Rand comment.

H. Compliance With Other Energy Policy and Conservation Act Requirements

This section discusses and responds to comments related to compliance with Energy Policy and Conservation Act Requirements.

1. Dates

HARDI commented that given the challenging and complex nature of the test procedure, the comment period should have been extended by 30 days. HARDI believes that restricting the comment period to 30 days has a negative impact to smaller companies as they may not have the means to fully assess the true impact of such a proposal in a narrow time frame. (HARDI, No. 57 at p. 1) JCI requested that the comment period remain open an additional 60 days to finalize their analysis of the proposed test procedure and any resulting clarifying comments. Goodman commented that the Department has not complied with federal law because it has failed to provide a 60-day comment period on this proposed test procedure per 42 U.S.C. 6293(b)(2). (Goodman, No. 73 at p. 22)

DOE notes that it received a request from AHRI to extend the comment period while the comment period was still open. (AHRI, No. 54, attachment 1). DOE considered the request from AHRI, but declined to do so. The November 2015 SNOPR represented the third round of comment on the CAC test procedure rulemaking. DOE is limited by a statutory cap on the number of days on which it can request public comment, and after three rounds of rulemaking, DOE is closer to that cap. Consequently, DOE declined the request and did not extend the comment period for the CAC/HP TP SNOPR. (AHRI, No. 54, Attachment 2)

JCI commented that the raw scope of changes proposed within the SNOPR coupled with the CAC/HP ECS Working Group and other DOE rulemaking activities is such that a complete and thorough review, understanding of the proposed changes, and resulting required laboratory changes, coupled with potential rerating and off mode standby test requirements make complying with the new test procedure within 180 days of being final particularly challenging if not impossible, and that the nature of many of the proposed changes to the test procedure require some level of capital investment and software programming. JCI formally requested that an additional 180 days were required to fully and completely implement all of the proposed changes in the SNOPR in addition to the standard 180 days as currently prescribed. (JCI, No. 66 at p. 2–3)

First Co. commented that the 180 day effective date for AEDM compliance proposed by DOE is unrealistic and suggested an effective date of 18 months from the date the rule is finalized. (First Co., No. 56 at p. 1)

AHRI, ADP, Mortex, and Lennox commented that even with the adoption of the recommended ''Similarity Group'' framework, ICMs anticipate that the industry will face significant challenges to perform all the required testing in the currently required time of 180 days after the publication of the final rule. AHRI formally petitions the Department to extend the time period to comply to 360 days, as is consistent with its authority. See 42 U.S.C. 6293(c)(3). (AHRI, No. 70 at p. 7; ADP, No. 59 at p. 4; Mortex, No. 71 at p. 6–7; Lennox, No. 61 at p. 7)

In response to JCI, DOE notes that this final rule has a reduced scope from that of the SNOPR. In addition, DOE has made modifications to the off mode test requirement proposals to reduce test burden, as discussed in section III.D.10. For these reasons, DOE believes that a 180 day time period will be sufficient to implement the finalized test procedure. In response to First Co., AHRI, ADP, Mortex, and Lennox, DOE notes that 42 U.S.C. 6293(c)(3) allows individual manufacturers to petition DOE for additional time to comply. DOE cannot grant this additional time based on a blanket request from AHRI. However, as discussed in section III.H.2, the changes adopted in this final rule do not impact measured energy use; and as such, additional test burden is expected to be limited.

2. Measured Energy Use

EPCA requires that if DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2)) In the November 2015 SNOPR, DOE determined that all proposed changes for Appendix M would not alter the measured efficiency of central air conditioners and heat pumps. DOE proposed all changes that it anticipated might alter the measured efficiency for Appendix M1, which will be addressed in a separate notice.

AHRI, Nortek and UTC/Carrier disagreed that the proposed changes to Appendix M will not alter the measured efficiency of a covered product. (AHRI, No. 70 at p. 1–2; Nortek, No. 58 at p. 1; UTC/Carrier, No. 62 at p. 23) UTC/Carrier commented that this could be due to C_D testing changing the resultant SEER or HSPF, as it has slightly different stability requirements, or could be due to manufacturers losing the ability to de-rate and require ratings to be at the mean of the data/testing results. (UTC/Carrier, No. 62 at p. 23) AHRI contended that the following proposed changes may impact efficiency: Changes to the C_D; requirement that manufacturers rate to the mean of the cooling capacity, heating capacity, and sensible heat ratio (SHR) and the prohibition on manufacturers' conservative ratings; requirement that two-speed products must be tested coil-only, which has the potential to change ratings derived previously using a blower coil or the alternative rating method; and limit on compressor break-in period. (AHRI, No. 70 at p. 1–2)

Rheem commented that that each of the changes that have been proposed made a difference in the rating of a specific equipment sample subject to verification or enforcement testing and that it is not clear whether the certification rating will increase or decrease for each proposed change. Rheem commented that it is not clear how the conclusion that proposed changes do not impact standards was reached. (Rheem, No. 69 at p. 2)

DOE notes that with the exception of compressor break-in period, DOE has made modifications to its proposals on all the topics for which UTC/Carrier and AHRI expressed concern over change in represented value. In addition, DOE notes that the current test procedure does not include a compressor break-in period, and any change in represented value for testing a specific unit with a break-in period would only serve to improve the value as compared to the standard. For these reasons, DOE confirms that the changes adopted in this final rule do not alter the measured efficiency of the covered product.

Nortek commented that if the test procedure does not change the efficiency, then all existing ratings are still valid. (Nortek, No. 58 at p. 1) Similarly, First Co. commented that the final rule should make clear that ICM test results remain valid until the energy efficiency standard changes. Retesting is not required merely because the OUM discontinues the outdoor unit tested by the ICM. (First Co., No. 56 at p. 2) Finally, AHRI, ADP, Mortex, and Lennox asked for clarity on using data from existing tests to satisfy testing requirements especially considering the burden associated with outside lab testing. These parties stated that, based on the proposed framework, ICMs and OUMs would expect that data from

existing tests performed to the current test standard and meeting all other requirements could be used to satisfy the testing requirement for existing products. In addition, they said that ICMs and OUMs also expect that tests will remain valid until the energy conservation standard is changed and Appendix M1 becomes effective. (AHRI, No. 70 at p. 7; ADP, No. 59 at p. 4; Mortex, No. 71 at p. 6–7; Lennox, No. 61 at p. 7)

DOE acknowledges that manufacturers have large amounts of pre-existing data that they currently use to make representations about and certify the performance of their equipment and that regenerating all of this data within the 180 day timeframe would be burdensome. As such, manufacturers may continue to use such data to make representations about the performance of models after the 180 day timeframe, provided manufacturers are confident that the values are consistent with those that would be generated under the adopted test procedure.

3. Test Burden

EPCA requires that any test procedures prescribed or amended shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) For the reasons that follow, DOE has concluded that revising the DOE test procedure, per the amendments in this final rule, to measure the energy consumption of central air conditioners and heat pumps in active mode and off mode would produce the required test results and would not result in any undue burden.

As discussed in section IV.B of this final rule, the revised test procedures to determine the active-mode and standby-mode energy use would require use of the same testing equipment and facilities that manufacturers are currently using for testing to determine CAC/HP represented values for certifying performance to DOE. While this notice clarifies the test procedures, and adopts into regulation the test procedures associated with a number of test procedure waivers, most of the amendments would not affect test time or the equipment and facilities required to conduct testing. Possible changes in test burden associated with the amendments of this notice apply to off mode testing.

The amendments include additional testing to determine off mode energy use, as required by EPCA. (42 U.S.C. 6295(gg)(2)(A)) This additional testing may require investment in additional temperature-controlled facilities. However, DOE's revised test procedure does not require that every individual combination be tested for off mode, allowing extensive use of AEDMs in order to reduce test burden.

In addition, DOE carefully considered the testing burden on manufacturers in a modified off mode test procedure that is less burdensome than the proposals it made in the April 2011 SNOPR and October 2011 SNOPR and that addresses stakeholder comment regarding the test burden of such prior proposals. DOE made further changes to reduce test burden of the off-mode test procedure in response to comments regarding the November 2015 SNOPR, specifically (a) allowing the test to be conducted in a temperature-controlled room rather than a psychrometric test facility, and (b) allowing the test to be conducted without room temperature control for more designs than allowed by the proposal. Further discussion regarding test burden associated with the proposals set forth in this notice for determining off mode power consumption can be found in section III.D.

The November 2015 SNOPR also proposed amendments calling for testing to determine performance for ICMs. These amendments have been revised in this final rule such that far fewer models will have to be tested (see the discussion in section III.A.1.d).

DOE allows manufacturers to develop and apply an alternative efficiency determination method to certify products without the need of testing. In this notice, DOE revises and clarifies such requirements, as detailed in section III.B, to continue to enable manufacturers who wish to reduce testing burden to utilize this method.

As detailed in section III.C, manufacturers of certain products covered by test procedure waivers have already been using the alternative test procedures provided to them for certification testing. Thus, the inclusion of those alternative test procedures into the test procedure, as revised in this notice, does not add test burden.

DOE set forth amendments to improve test repeatability, improve the readability and clarity of the test procedure, and utilize industry procedures that manufacturers may be aware of in an effort to reduce the test burden. Sections III.E, III.F, and III.G present additional detail regarding such amendments.

DOE carefully considered the impact on testing burden and made efforts to balance accuracy, repeatability, and test burden during the course of the development of all of the test procedure amendments. Therefore, DOE determined that the revisions to the central air conditioner and heat pump test procedure will produce test results that measure energy consumption during a period of representative use, and that the test procedure will not be unduly burdensome to conduct.

4. Potential Incorporation of International Electrotechnical Commission Standard 62301 and International Electrotechnical Commission Standard 62087

Under 42 U.S.C. 6295(gg)(2)(B), EPCA directs DOE to consider IEC Standard 62301 and IEC Standard 62087 when amending test procedures for covered products to include standby mode and off mode power measurements.

DOE reviewed IEC Standard 62301, ''Household electrical appliances—Measurement of standby power'' (Edition 2.0 2011–01),[19] and determined that the procedures contained therein are not sufficient to properly measure off mode power for the unique characteristics of the components that contribute to off-mode power for CAC/HP products, *i.e.*, the crankcase heaters. Therefore, DOE determined that referencing IEC Standard 62301 is not appropriate for the revised test procedure that is the subject of this rulemaking.

DOE reviewed IEC Standard 62087, ''Methods of measurement for the power consumption of audio, video, and related equipment'' (Edition 3.0 2011–04), and determined that it would not be applicable to measuring power consumption of products such as central air conditioners and heat pumps. Therefore, DOE determined that referencing IEC Standard 62087 is not necessary for the revised test procedure that is the subject of this rulemaking.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget.

[19] IEC Standard 62301 covers measurement of power consumption for standby mode and low power modes, as defined therein.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (FRFA) for any 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 DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel*.

DOE reviewed today's final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This final rule prescribes clarifications to DOE's already-existing test procedures that will be used to test compliance with energy conservation standards for the products that are the subject of this rulemaking. It also adds a requirement to conduct testing to determine off mode power consumption. DOE has estimated the impacts of the test procedure changes on small business manufacturers.

For the purpose of the regulatory flexibility analysis for this rule, DOE adopts the Small Business Administration (SBA) definition of a small entity within this industry as a manufacturing enterprise with 1,250 employees or fewer. DOE used the small business size standards published by the SBA to determine whether any small entities would be required to comply with the rule. The size standards are codified at 13 CFR part 121. The standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*.

Central air conditioner and heat pump manufacturing is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' 70 FR 12395 (March 11, 2005). DOE reviewed AHRI's listing of central air conditioner and heat pump product manufacturer members and surveyed the industry to develop a list of domestic manufacturers. As a result of this review, DOE identified 24 domestic small manufacturers of central air conditioners and heat pumps.

Potential impacts of the amended test procedure on all manufacturers, including small businesses, come from impacts associated with the cost of proposed additional testing. In the June 2010 NOPR, DOE estimated the incremental cost of the proposed additional tests described in 10 CFR part 430, subpart B, Appendix M (proposed section 3.13) to be an increase of $1,000 to $1,500 per unit tested, indicating that the largest additional cost would be associated with conducting steady-state cooling mode tests and the dry climate tests for the SEER–HD rating). 75 FR 31243 (June 2, 2010). DOE has eliminated tests associated with SEER–HD from this rulemaking. DOE conservatively estimates that off mode testing might cost $1,000 (roughly one-fifth of the $5000 cost of active mode testing—see 75 FR 31243 (June 2, 2010)). Assuming two off mode tests per tested model, this is an average test cost of $2,000 per model. This estimate does not take into consideration the possibility of the use of AEDMs for establishing off-mode represented values, which could significantly reduce the off-mode testing burden. It also does not take into account the changes in off-mode testing adopted in this final rule to reduce test burden, *i.e.*, specifically allowing more units to test off-mode energy use in a room without temperature control, and clarifying that off-mode testing does not need to be conducted in a psychrometric chamber (see section III.D for details).

The off mode test procedure primarily measures energy use of outdoor units. The off-mode power input represented values for CAC/HP model combinations including indoor units manufactured by ICMs would be equal to the off-mode represented values of other combinations using the same outdoor units. Hence, it is expected that small-business ICM manufacturers would use these same represented values rather than retesting the outdoor units and thus not be affected by the off-mode testing required by this rule. Because the incremental cost of running the extra off mode tests is the same for all other manufacturers, DOE believes that they would incur comparable costs for testing to certify off mode power use for basic models as a result of this final test procedure.

With respect to the provisions addressing AEDMs, the amendments contained herein will not increase the testing or reporting burden of OUMs who currently use, or are eligible to use, an AEDM to certify their products. The amendments eliminate the ARM nomenclature and treat these methods as AEDMs, eliminate the pre-approval requirement for product AEDMs, revise the requirements for validation of an AEDM in a way that would not require more testing than that required by the AEDM provisions included in the March 7, 2011 Certification, Compliance and Enforcement Final Rule (76 FR 12422) (''March 2011 Final Rule''), and amend the process that DOE promulgated in the March 2011 Final Rule for validating AEDMs and verifying certifications based on the use of AEDMs. Because these AEDM-related amendments will either have no effect on test burden or decrease burden related to testing and determination of represented values of products (*e.g.*, elimination of ARM pre-approval), DOE has determined these amendments will result in no significant change in testing or reporting burden.

To evaluate the potential cost impact of off-mode testing for small OUMs, DOE estimated small manufacturers' total cost of testing. As discussed above, DOE identified 24 domestic small business manufacturers of CAC/HP products. Of these, only OUMs that operate their own manufacturing facilities (*i.e.*, are not private labelers selling only products manufactured by other entities) and OUM importing private labelers would be subject to the additional requirements for testing required by this rule. DOE identified 12 such manufacturers, but was able to estimate the number of basic models associated only with nine of these. DOE calculated the additional testing expense for these nine domestic small businesses. Assuming the $2,000 estimate of additional test cost per basic model, and that testing of basic models may not have to be updated more than once every five years, DOE estimated that the annual cost impact of the additional testing is $400 per basic model when the cost is spread over five years.

DOE currently requires that only one combination associated with any given outdoor unit be laboratory tested. 10 CFR 430.24(m). The majority of central air conditioners and heat pumps offered by a manufacturer are typically split systems that are not required to be laboratory tested but can be certified using an AEDM that does not require DOE testing of these units. DOE reviewed available data for the nine small businesses to estimate the incremental testing cost burden those firms might experience due to the revised test procedure. These manufacturers had an average of 35

models requiring testing. DOE determined the numbers of models using DOE's Compliance Certification Database (*https://www.regulations.doe.gov/certification-data/*). The additional testing cost for final certification for 35 models was estimated at $70,000. Meanwhile, these certifications would be expected to last the product life, estimated to be at least five years. This test burden is therefore estimated to be approximately $14,000 annually.

In addition to off-mode testing costs facing small OUMs of central air conditioners and heat pumps, this final rule will require ICMs to conduct testing for their basic models. However, DOE has modified its definition of basic model for ICM to match the Similarity Group concept suggested by several stakeholders (see section III.A.1.d). Further, DOE has relaxed its requirement for testing of ICM heat pump combinations, such that only a limited number of heat pump basic models would require testing, *i.e.*, those for which a test has not been conducted for an equivalent air-conditioner model. DOE identified three domestic small ICMs subject to testing costs under this final rule.

To calculate the additional testing costs facing small ICMs, DOE used data provided by AHRI regarding what they referred to as Similarity Groups and which DOE is considering to be basic models. Specifically, DOE assumed an average of 42 basic models per ICM based on the AHRI data. (AHRI, No. 70 at p. 6) DOE also assumed $7,500 in added costs per test and two tests per basic model. (AHRI, No. 70 at p. 4) Assuming $15,000 in additional testing costs per basic model (to cover two tests per model), and that testing of basic models may not have to be updated more than once every five years, DOE estimated that the total additional testing cost for final certification of 42 basic models for each small ICM would amount to costs averaging $126,000 per year.

DOE will provide its certification and final supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of central air conditioners and heat pumps 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 central air conditioners and heat pumps, 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 central air conditioners and heat pumps. 76 FR 12422 (March 7, 2011); 80 FR 5099 (Jan. 30, 2015). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE amends its test procedure for central air conditioners and heat pumps. DOE has determined that this final rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule amends the existing test procedures without affecting the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

DOE's CX determination for this rule is available at *http://energy.gov/nepa/categorical-exclusion-cx-determinations-cx*.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this final rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this 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(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to

review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel*. DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

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 final rule will 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 will 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 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 final 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 OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use associated with the rule's implementation, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it will not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The rule incorporates testing methods contained in the following commercial standards: AHRI 210/240–2008, Performance Rating of Unitary Air-Conditioning & Air-Source Heat Pump Equipment; and AHRI 1230–2010, Performance Rating of Variable Refrigerant Flow Multi-Split Air-Conditioning and Heat Pump Equipment. While the amended test procedure is not exclusively based on AHRI 210/240–2008 or AHRI 1230–2010, one component of the test procedure, namely test setup requirements, adopts language from AHRI 210/240–2008 without amendment; and another component of the test procedure, namely test setup and test performance requirements for multi-split systems, adopts language from AHRI 1230–2010 without amendment. DOE has evaluated these standards and consulted with the Attorney General and the Chairman of the FTC and has concluded that this final rule fully complies with the requirements of section 32(b) of the FEAA.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

N. Description of Materials Incorporated by Reference

In this final rule, DOE is incorporating by reference specific sections, figures, and tables in the following two test

standards published by AHRI: ANSI/AHRI 210/240–2008 with Addenda 1 and 2, titled ''Performance Rating of Unitary Air-Conditioning & Air-Source Heat Pump Equipment;'' and ANSI/AHRI 1230–2010 with Addendum 2, titled ''Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment.'' DOE is also updating its incorporation by reference (IBR) to the most recent versions of specific standards, figures, and tables in the following standards published by ASHRAE: ASHRAE 23.1–2010 titled ''Methods of Testing for Rating the Performance of Positive Displacement Refrigerant Compressors and Condensing Units that Operate at Subcritical Temperatures of the Refrigerant'', ANSI/ASHRAE 37–2009, Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment, ANSI/ASHRAE 41.1–2013 titled ''Standard Method for Temperature Measurement'', ASHRAE 41.6–2014 titled ''Standard Method for Humidity Measurement'', and ASHRAE 41.9–2011 titled ''Standard Methods for Volatile-Refrigerant Mass Flow Measurements Using Calorimeters''. Finally, DOE is updating its IBR to specific figures in the most recent version of the following test procedure from ASHRAE and AMCA: ANSI/AMCA 210–2007, ANSI/ASHRAE 51–2007, Laboratory Methods of Testing Fans for Certified Aerodynamic Performance Rating.

AHRI 210/240–2008 is an industry accepted test procedure that measures the cooling and heating performance of central air conditioners and heat pumps and is applicable to products sold in North America. The test procedure in this final rule references various sections of AHRI 210/240–2008 that address test setup, test conditions, and rating requirements. AHRI 210/240–2008 is readily available on AHRI's Web site at *http://www.ahrinet.org/site/686/Standards/HVACR-Industry-Standards/Search-Standards*.

AHRI 1230–2010 is an industry accepted test procedure that measures the cooling and heating performance of variable refrigerant flow (VRF) multi-split air conditioners and heat pumps and is applicable to products sold in North America. The test procedure in this final rule for VRF multi-split systems references various sections of AHRI 1230–2010 that address test setup, test conditions, and rating requirements. AHRI 1230–2010 is readily available on AHRI's Web site at *http://www.ahrinet.org/site/686/Standards/HVACR-Industry-Standards/Search-Standards*.

ASHRAE 23.1–2010 is an industry accepted test procedure for rating the thermodynamic performance of positive displacement refrigerant compressors and condensing units that operate at subcritical temperatures. The test procedure in this final rule references sections of ASHRAE 23.1–2010 that address requirements, instruments, methods of testing, and testing procedure specific to compressor calibration. ASHRAE 23.1–2010 can be purchased from ASHRAE's Web site at *https://www.ashrae.org/resources-publications*.

ANSI/ASHRAE 37–2009 is an industry accepted standard that provides test methods for determining the cooling capacity of unitary air-conditioning equipment and the cooling or heating capacities, or both, of unitary heat pump equipment. The test procedure in this final rule references various sections of ANSI/ASHRAE 37–2009 that address test conditions and test procedures, updating the IBR from a previous version of this standard, ASHRAE 37–2005. ANSI/ASHRAE 37–2009 can be purchased from ASHRAE's Web site at *https://www.ashrae.org/resources-publications*.

ANSI/ASHRAE 41.1–2013 is an industry accepted method for measuring temperature in testing heating, refrigerating, and air-conditioning equipment. The test procedure in this final rule references sections of ANSI/ASHRAE 41.1–2013 that address requirements, instruments, and methods for measuring temperature. ANSI/ASHRAE 41.1–2013 can be purchased from ASHRAE's Web site at *https://www.ashrae.org/resources-publications*.

ASHRAE 41.2–1987 (RA 1992) is an industry accepted test method for measuring airflow. The test procedure in this final rule references sections of ASHRAE 41.2–1987 (RA 1992) that address test setup and test methods. ASHRAE 41.2–1987 (RA 1992) can be purchased from ASHRAE's Web site at *https://www.ashrae.org/resources-publications*.

ASHRAE 41.6–2014 is an industry accepted test method for measuring humidity of moist air. The test procedure in this final rule references sections of ASHRAE 41.6–2014 that address requirements, instruments, and methods for measuring humidity. ASHRAE 41.6–2014 can be purchased from ASHRAE's Web site at *https://www.ashrae.org/resources-publications*.

ASHRAE 41.9–2011 is an industry accepted standard that provides recommended practices for measuring the mass flow rate of volatile refrigerants using calorimeters. The test procedure in this final rule references sections of ASHRAE 41.9–2011 that address requirements, instruments, and methods for measuring refrigerant flow during compressor calibration. ASHRAE 41.9–2011 can be purchased from ASHRAE's Web site at *https://www.ashrae.org/resources-publications*.

ANSI/ASHRAE Standard 116–2010 is an industry accepted standard that provides test methods and calculation procedures for determining the capacities and cooling seasonal efficiency ratios for unitary air-conditioning, and heat pump equipment and heating seasonal performance factors for heat pump equipment. The test procedure in this final rule references various sections of ANSI/ASHRAE 116–2010 that addresses test methods and calculations, updating the IBR from a previous version of the standard, ASHRAE 116–1995 (RA 2005). ANSI/ASHRAE Standard 116–2010 can be purchased from ASHRAE's Web site at *https://www.ashrae.org/resources-publications*.

AMCA 210–2007 is an industry accepted standard that establishes uniform test methods for a laboratory test of a fan or other air moving device to determine its aerodynamic performance in terms of air flow rate, pressure developed, power consumption, air density, speed of rotation, and efficiency for rating or guarantee purposes. The test procedure in this final rule references various sections of AMCA 210–2007 that address test conditions, updating the IBR from a previous version of this standard, ASHRAE/AMCA 51–1999/210–1999. AMCA 210–2007 can be purchased from AMCA's Web site at *http://www.amca.org/store/index.php*.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Energy conservation test procedures, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on May 19, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends parts 429 and 430 of chapter II of title 10, Code of Federal Regulations, to read as follows:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.12 is amended by revising paragraphs (b)(8) and (12) to read as follows:

§ 429.12 General requirements applicable to certification reports.

* * * * *

(b) * * *

(8) The test sample size (*i.e.,* number of units tested for the basic model, or in the case of single-split system or single-package central air conditioners and central air conditioning heat pumps, or multi-split, multi-circuit, or multi-head mini-split systems other than the ''tested combination,'' for each individual combination or individual model). Enter ''0'' if an AEDM was used in lieu of testing (and in the case of central air conditioners and central air conditioning heat pumps, this must be indicated separately for each metric);

* * * * *

(12) If the test sample size is listed as ''0'' to indicate the certification is based upon the use of an alternate way of determining measures of energy conservation, identify the method used for determining measures of energy conservation (such as ''AEDM,'' or linear interpolation). Manufacturers of commercial packaged boilers, commercial water heating equipment, commercial refrigeration equipment, commercial HVAC equipment, and central air conditioners and central air conditioning heat pumps must provide the manufacturer's designation (name or other identifier) of the AEDM used; and

* * * * *

■ 3. Section 429.16 is revised to read as follows:

§ 429.16 Central air conditioners and central air conditioning heat pumps.

(a) *Determination of Represented Value*—(1) *Required represented values.* Determine the represented values (including SEER, EER, HSPF, $P_{W,OFF}$, cooling capacity, and heating capacity, as applicable) for the individual models/combinations (or ''tested combinations'') specified in the following table.

Category	Equipment subcategory	Required represented values
Single-Package Unit	Single-Package AC (including Space-Constrained).	Every individual model distributed in commerce.
	Single-Package HP (including Space-Constrained).	
Outdoor Unit and Indoor Unit (Distributed in Commerce by OUM).	Single-Split System AC with Single-Stage or Two-Stage Compressor (including Space-Constrained and Small-Duct, High Velocity Systems (SDHV)).	Every individual combination distributed in commerce, including all coil-only and blower coil combinations. For each model of outdoor unit, this must include at least one coil-only value that is representative of the least efficient combination distributed in commerce with the particular model of outdoor unit.
	Single-Split System AC with Other Than Single-Stage or Two-Stage Compressor (including Space-Constrained and SDHV).	Every individual combination distributed in commerce, including all coil-only and blower coil combinations.
	Single-Split-System HP (including Space-Constrained and SDHV).	Every individual combination distributed in commerce.
	Multi-Split, Multi-Circuit, or Multi-Head Mini-Split Split System—non-SDHV.	For each model of outdoor unit, at a minimum, a non-ducted ''tested combination.'' For any model of outdoor unit also sold with models of ducted indoor units, a ducted ''tested combination.'' Additional representations are allowed, as described in paragraph (c)(3)(i) of this section.
	Multi-Split, Multi-Circuit, or Multi-Head Mini-Split Split System—SDHV.	For each model of outdoor unit, an SDHV ''tested combination.'' Additional representations are allowed, as described in paragraph (c)(3)(ii) of this section.
Indoor Unit Only (Distributed in Commerce by ICM).	Single-Split-System Air Conditioner (including Space-Constrained and SDHV).	Every individual combination distributed in commerce.
	Single-Split-System Heat Pump (including Space-Constrained and SDHV).	
	Multi-Split, Multi-Circuit, or Multi-Head Mini-Split Split System—SDHV.	For a model of indoor unit within each basic model, an SDHV ''tested combination.'' Additional representations are allowed, as described in section (c)(3)(ii).
Outdoor Unit with no Match		Every model of outdoor unit distributed in commerce (tested with a model of coil-only indoor unit as specified in paragraph (c)(2) of this section).

(2) $P_{W,OFF.}$ If individual models of single-package systems or individual combinations (or ''tested combinations'') of split systems that are otherwise identical are offered with multiple options for off mode-related components, determine the represented value for the individual model/combination with the crankcase heater and controls that are the most consumptive. A manufacturer may also determine represented values for individual models/combinations with less consumptive off mode options; however, all such options must be

identified with different model numbers for single-package systems or for outdoor units (in the case of split systems).

(3) *Limitations for represented values of individual combinations.* The following paragraphs explains the limitations for represented values of individual combinations (or ''tested combinations'').

(i) *Regional.* A basic model may only be certified as compliant with a regional standard if all individual combinations within that basic model meet the regional standard for which it is certified. If a model of outdoor unit is certified below a regional standard, then the model of outdoor unit must have a unique model number for distribution in each region. An ICM cannot certify a basic model containing a representative value that is more efficient than any combination certified by an OUM containing the same outdoor unit.

(ii) *Multiple product classes.* Models of outdoor units that are rated and distributed in individual combinations that span multiple product classes must be tested, rated, and certified pursuant to paragraph (a) of this section as compliant with the applicable standard for each product class. This includes multi-split systems, multi-circuit systems, and multi-head mini-split systems with a represented value for a mixed combination including both SDHV and either non-ducted or ducted indoor units.

(4) *Requirements.* All represented values under paragraph (a) of this section must be based on testing in accordance with the requirements in paragraph (b) of this section or the application of an AEDM or other methodology as allowed in paragraph (c) of this section.

(b) *Units tested*—(1) *General.* The general requirements of § 429.11 apply to central air conditioners and heat pumps; and

(2) *Individual model/combination selection for testing.* (i) The table identifies the minimum testing requirements for each basic model that includes multiple individual models/combinations. For each basic model that includes only one individual model/combination, that individual model/combination must be tested.

Category	Equipment subcategory	Must test:	With:
Single-Package Unit	Single-Package AC (including Space-Constrained).	The lowest SEER individual model.	N/A.
	Single-Package HP (including Space-Constrained).		
Outdoor Unit and Indoor Unit (Distributed in Commerce by OUM).	Single-Split-System AC with Single-Stage or Two-Stage Compressor (including Space-Constrained and Small- Duct, High Velocity Systems (SDHV)).	The model of outdoor unit	The model of coil-only indoor unit that is likely to have the largest volume of retail sales with the particular model of outdoor unit.
	Single-Split System AC with Other Than Single-Stage or Two-Stage Compressor (including Space-Constrained and SDHV).	The model of outdoor unit	The model of indoor unit that is likely to have the largest volume of retail sales with the particular model of outdoor unit.
	Single-Split-System HP (including Space-Constrained and SDHV).		
	Multi-Split, Multi-Circuit, or Multi-Head Mini-Split Split System—non-SDHV.	The model of outdoor unit	At a minimum, a ''tested combination'' composed entirely of non-ducted indoor units. For any models of outdoor units also sold with models of ducted indoor units, a second ''tested combination'' composed entirely of ducted indoor units must be tested (in addition to the non-ducted combination).
	Multi-Split, Multi-Circuit, or Multi-Head Mini-Split Split System—SDHV.	The model of outdoor unit	A ''tested combination'' composed entirely of SDHV indoor units.
Indoor Unit Only (Distributed in Commerce by ICM).	Single-Split-System Air Conditioner (including Space-Constrained and SDHV).	A model of indoor unit	The least efficient model of outdoor unit with which it will be paired where the least efficient model of outdoor unit is the model of outdoor unit in the lowest SEER combination as certified by the OUM. If there are multiple models of outdoor unit with the same lowest SEER represented value, the ICM may select one for testing purposes.
	Single-Split-System Heat Pump (including Space-Constrained and SDHV).	Nothing, as long as an equivalent air conditioner basic model has been tested. If an equivalent air conditioner basic model has not been tested, must test a model of indoor unit.	

Category	Equipment subcategory	Must test:	With:
	Multi-Split, Multi-Circuit, or Multi-Head Mini-Split Split System—SDHV.	A model of indoor unit.	A "tested combination" composed entirely of SDHV indoor units, where the outdoor unit is the least efficient model of outdoor unit with which the SDHV indoor unit will be paired. The least efficient model of outdoor unit is the model of outdoor unit in the lowest SEER combination as certified by the OUM. If there are multiple models of outdoor unit with the same lowest SEER represented value, the ICM may select one for testing purposes.
Outdoor Unit with No Match		The model of outdoor unit	A model of coil-only indoor unit meeting the requirements of section 2.2e of Appendix M to subpart B of part 430.

(ii) Each individual model/combination (or ''tested combination'') identified in paragraph (b)(2)(i) of this section is not required to be tested for $P_{W,OFF}$. Instead, at a minimum, among individual models/combinations with similar off-mode construction (even spanning different models of outdoor units), a manufacturer must test at least one individual model/combination for $P_{W,OFF}$.

(3) *Sampling plans and representative values.* (i) For individual models (for single-package systems) or individual combinations (for split–systems, including ''tested combinations'' for multi-split, multi-circuit, and multi-head mini-split systems) with represented values determined through testing, each individual model/combination (or ''tested combination'') must have a sample of sufficient size tested in accordance with the applicable provisions of this subpart. For heat pumps (other than heating-only heat pumps), all units of the sample population must be tested in both the cooling and heating modes and the results used for determining all representations. The represented values for any individual model/combination must be assigned such that:

(i) *Off-Mode.* Any represented value of power consumption or other measure of energy consumption for which consumers would favor lower values must be greater than or equal to the higher of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; Or,

(B) The upper 90 percent confidence limit (UCL) of the true mean divided by 1.05, where:

$$UCL = \bar{x} + t_{.90}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the t statistic for a 90 percent one-tailed confidence interval with n − 1 degrees of freedom (from appendix D). Round represented values of off-mode power consumption to the nearest watt.

(ii) *SEER, EER, and HSPF.* Any represented value of the energy efficiency or other measure of energy consumption for which consumers would favor higher values shall be less than or equal to the lower of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; or,

(B) The lower 90 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{.90}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.90}$ is the t statistic for a 90 percent one-tailed confidence interval with n − 1 degrees of freedom (from Appendix D). Round represented values of EER, SEER, and HSPF to the nearest 0.05.

(iii) *Cooling Capacity.* The represented value of cooling capacity must be a self-declared value that is no less than 95 percent of the mean of the cooling capacities measured for the units in the sample, rounded:

(A) To the nearest 100 Btu/h if cooling capacity is less than 20,000 Btu/h,

(B) To the nearest 200 Btu/h if cooling capacity is greater than or equal to 20,000 Btu/h but less than 38,000 Btu/h, and

(C) To the nearest 500 Btu/h if cooling capacity is greater than or equal to 38,000 Btu/h and less than 65,000 Btu/h.

(iv) *Heating Capacity.* The represented value of heating capacity must be a self-declared value that is no less than 95 percent of the mean of the heating capacities measured for the units in the sample, rounded:

(A) To the nearest 100 Btu/h if heating capacity is less than 20,000 Btu/h,

(B) To the nearest 200 Btu/h if heating capacity is greater than or equal to 20,000 Btu/h but less than 38,000 Btu/h, and

(C) To the nearest 500 Btu/h if heating capacity is greater than or equal to 38,000 Btu/h and less than 65,000 Btu/h.

(c) *Determination of represented values for all other individual models/combinations besides those specified in paragraph (b)(2) of this section*—(1) *All basic models except outdoor units with no match and multi-split systems, multi-circuit systems, and multi-head mini-split systems.* (i) For every individual model/combination within a basic model other than the individual model/

combination required to be tested pursuant to paragraph (b)(2) of this section, either—

(A) A sample of sufficient size, comprised of production units or representing production units, must be tested as complete systems with the resulting represented values for the individual model/combination obtained in accordance with paragraphs (b)(1) and (3) of this section; or

(B) The represented values of the measures of energy efficiency or energy consumption must be assigned through the application of an AEDM in accordance with paragraph (d) of this section and § 429.70. An AEDM may only be used to rate individual models/combinations in a basic model other than the individual model/combination required for mandatory testing under paragraph (b)(2)(i) of this section. No basic model may be rated with an AEDM (except for determination of $P_{W,OFF}$).

(ii) For every individual model/combination within a basic model tested pursuant to paragraph (b)(2) of this section, but for which $P_{W,OFF}$ testing was not conducted, the represented value of $P_{W,OFF}$ may be assigned through, either:

(A) The testing result from an individual model/combination of similar off-mode construction, or

(B) The application of an AEDM in accordance with paragraph (d) of this section and § 429.70.

(2) *Outdoor units with no match.* All models of outdoor unit within a basic model must be tested. No model of outdoor unit may be rated with an AEDM.

(3) *Multi-split systems, multi-circuit systems, and multi-head mini-split systems.* The following applies:

(i) For basic models composed of both non-ducted and ducted combinations, the represented value for the mixed non-ducted/ducted combination is the mean of the represented values for the non-ducted and ducted combinations as determined in accordance with paragraph (b)(3)(i) of this section.

(ii) For basic models composed of both SDHV and non-ducted or ducted combinations, the represented value for the mixed SDHV/non-ducted or SDHV/ducted combination is the mean of the represented values for the SDHV, non-ducted, or ducted combinations, as applicable, as determined in accordance with paragraph (b)(3)(i) of this section.

(iii) All other individual combinations of models of indoor units for the same model of outdoor unit for which the manufacturer chooses to make representations must be rated as separate basic models, and the provisions in paragraphs (b)(1) through (3) and (c)(3)(i) and (ii) of this section apply.

(iv) For every individual combination (or ''tested combination'') within a basic model tested pursuant to paragraph (b)(2) of this section, but for which $P_{W,OFF}$ testing was not conducted, the representative values of $P_{W,OFF}$ may be assigned through either:

(A) The testing result from an individual combination (or ''tested combination'') of similar off-mode construction, or

(B) Application of an AEDM in accordance with paragraph (d) of this section and § 429.70. No basic model may be rated with an AEDM for SEER, EER, or HSPF.

(d) *Alternative efficiency determination methods.* In lieu of testing, represented values of efficiency or consumption may be determined through the application of an AEDM pursuant to the requirements of § 429.70(e) and the provisions of this section.

(1) *Power or energy consumption.* Any represented value of the average off mode power consumption or other measure of energy consumption of an individual model/combination for which consumers would favor lower values must be greater than or equal to the output of the AEDM but no less than the standard.

(2) *Energy efficiency.* Any represented value of the SEER, EER, HSPF or other measure of energy efficiency of an individual model/combination for which consumers would favor higher values must be less than or equal to the output of the AEDM but no greater than the standard.

(3) *Cooling capacity.* The represented value of cooling capacity of an individual model/combination must be no less than 95% of the cooling capacity output simulated by the AEDM.

(4) *Heating capacity.* The represented value of heating capacity of an individual model/combination must be no less than 95% of the heating capacity output simulated by the AEDM.

(e) *Certification reports.* This paragraph specifies the information that must be included in a certification report.

(1) *General.* The requirements of § 429.12 apply to central air conditioners and heat pumps.

(2) *Public product-specific information.* Pursuant to § 429.12(b)(13), for each individual model (for single-package systems) or individual combination (for split–systems, including ''tested combinations'' for multi-split, multi-circuit, and multi-head mini-split systems), a certification report must include the following public product-specific information: The seasonal energy efficiency ratio (SEER in British thermal units per Watt-hour (Btu/W-h)); the average off mode power consumption ($P_{W,OFF}$ in Watts); the cooling capacity in British thermal units per hour (Btu/h); the region(s) in which the basic model can be sold; and

(i) For heat pumps, the heating seasonal performance factor (HSPF in British thermal units per Watt-hour (Btu/W-h));

(ii) For air conditioners (excluding space constrained), the energy efficiency ratio (EER in British thermal units per Watt-hour (Btu/W-h));

(iii) For single-split-system equipment, whether the represented value is for a coil-only or blower coil system; and

(iv) For multi-split, multiple-circuit, and multi-head mini-split systems (including VRF), whether the represented value is for a non-ducted, ducted, mixed non-ducted/ducted system, SDHV, mixed non-ducted/SDHV system, or mixed ducted/SDHV system.

(3) *Basic and individual model numbers.* The basic model number and individual model number(s) required to be reported under § 429.12(b)(6) must consist of the following:

Equipment type	Basic model number	Individual model number(s)		
		1	2	3
Single-Package (including Space-Constrained).	Number unique to the basic model.	Package	N/A	N/A.
Single-Split System (including Space-Constrained).	Number unique to the basic model.	Outdoor Unit	Indoor Unit	Air Mover (could be same as indoor unit if fan is part of indoor unit model number).

Equipment type	Basic model number	Individual model number(s)		
		1	2	3
Multi-Split, Multi-Circuit, and Multi-Head Mini-Split System (including SDHV).	Number unique to the basic model.	Outdoor Unit	When certifying a basic model based on tested combination(s): ***. When certifying an individual combination: Indoor Unit(s).	When certifying a basic model based on tested combination(s): *** When certifying an individual combination: Air Mover(s).
Outdoor Unit with No Match.	Number unique to the basic model.	Outdoor Unit	N/A	N/A.

(4) *Additional product-specific information.* Pursuant to § 429.12(b)(13), for each individual model/combination (or ''tested combination''), a certification report must include the following additional product-specific information: the cooling full load air volume rate for the system or for each indoor unit as applicable (in cubic feet per minute (cfm)); the air volume rates for other test conditions including minimum cooling air volume rate, intermediate cooling air volume rate, full load heating air volume rate, minimum heating air volume rate, intermediate heating air volume rate, and nominal heating air volume rate (cfm) for the system or for each indoor unit as applicable, if different from the cooling full load air volume rate; whether the individual model/combination uses a fixed orifice, thermostatic expansion valve, electronic expansion valve, or other type of metering device; the duration of the compressor break-in period, if used; whether the optional tests were conducted to determine the C_D^c value used to represent cooling mode cycling losses or whether the default value was used; the temperature at which the crankcase heater with controls is designed to turn on, if applicable; the maximum time between defrosts as allowed by the controls (in hours); and

(i) For heat pumps, whether the optional tests were conducted to determine the C_D^h value or whether the default value was used;

(ii) For multi-split, multiple-circuit, and multi-head mini-split systems, the number of indoor units tested with the outdoor unit; the nominal cooling capacity of each indoor unit and outdoor unit in the combination; and the indoor units that are not providing heating or cooling for part-load tests;

(iii) For ducted systems having multiple indoor fans within a single indoor unit, the number of indoor fans; the nominal cooling capacity of the indoor unit and outdoor unit; and which fan(s) were operating and the allocation of the air volume rate to each operational fan for each operating mode used to determine represented values;

(iv) For blower coil systems, the airflow-control settings associated with full load cooling operation; and the airflow-control settings or alternative instructions for setting fan speeds for tests other than full load cooling operation to the speeds upon which the represented value is based;

(v) For equipment with time-adaptive defrost control, the frosting interval to be used during frost accumulation tests and the procedure for manually initiating the defrost at the specified time;

(vi) For models of indoor units designed for both horizontal and vertical installation or for both up-flow and down-flow vertical installations, the orientation used for testing;

(vii) For variable speed equipment, the compressor frequency set points, and the required dip switch/control settings for step or variable components; and

(viii) For variable speed heat pumps, whether the unit controls restrict use of minimum compressor speed operation for some range of operating ambient conditions, whether the unit controls restrict use of maximum compressor speed operation for any ambient temperatures below 17 °F, and whether the optional $H4_2$ low temperature test was used to characterize performance at temperatures below 17 °F.

(f) *Represented values for the Federal Trade Commission.* The following represented value determinations shall be followed to meet the requirements of the Federal Trade Commission.

(1) *Annual Operating Cost—Cooling.* Determine the represented value of estimated annual operating cost for cooling-only units or the cooling portion of the estimated annual operating cost for air-source heat pumps that provide both heating and cooling by calculating the product of:

(i) The quotient of the represented value of cooling capacity, in Btu's per hour as determined in paragraph (b)(3)(iii) of this section, divided by the represented value of SEER, in Btu's per watt-hour, as determined in paragraph (b)(3)(ii) of this section;

(ii) The representative average use cycle for cooling of 1,000 hours per year;

(iii) A conversion factor of 0.001 kilowatt per watt; and

(iv) The representative average unit cost of electricity in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act.

(2) *Annual Operating Cost—Heating.* Determine the represented value of estimated annual operating cost for air-source heat pumps that provide only heating or for the heating portion of the estimated annual operating cost for air-source heat pumps that provide both heating and cooling, as the product of:

(i) The quotient of the mean of the standardized design heating requirement for the sample, in Btu's per hour, nearest to the Region IV minimum design heating requirement, determined for each unit in the sample in section 4.2 of appendix M to subpart B of part 430, divided by the represented value of heating seasonal performance factor (HSPF), in Btu's per watt-hour, calculated for Region IV corresponding to the above-mentioned standardized design heating requirement, as determined in paragraph (b)(3)(ii) of this section;

(ii) The representative average use cycle for heating of 2,080 hours per year;

(iii) The adjustment factor of 0.77, which serves to adjust the calculated design heating requirement and heating load hours to the actual load experienced by a heating system;

(iv) A conversion factor of 0.001 kilowatt per watt; and

(v) The representative average unit cost of electricity in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act.

(3) *Annual Operating Cost—Total.* Determine the represented value of estimated annual operating cost for air-source heat pumps that provide both heating and cooling by calculating the sum of the quantity determined in paragraph (f)(1) of this section added to the quantity determined in paragraph (f)(2) of this section.

(4) *Regional Annual Operating Cost—Cooling.* Determine the represented value of estimated regional annual operating cost for cooling-only units or the cooling portion of the estimated regional annual operating cost for air-source heat pumps that provide both heating and cooling by calculating the product of:

(i) The quotient of the represented value of cooling capacity, in Btu's per hour, determined in paragraph (b)(3)(iii) of this section divided by the represented value of SEER, in Btu's per watt-hour, determined in paragraph (b)(3)(ii) of this section;

(ii) The estimated number of regional cooling load hours per year determined from Table 21 in section 4.4 of appendix M to subpart B of part 430;

(iii) A conversion factor of 0.001 kilowatts per watt; and

(iv) The representative average unit cost of electricity in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act.

(5) *Regional Annual Operating Cost—Heating.* Determine the represented value of estimated regional annual operating cost for air-source heat pumps that provide only heating or for the heating portion of the estimated regional annual operating cost for air-source heat pumps that provide both heating and cooling as the product of:

(i) The estimated number of regional heating load hours per year determined from Table 21 in section 4.4 of appendix M to subpart B of part 430;

(ii) The quotient of the mean of the standardized design heating requirement for the sample, in Btu's per hour, for the appropriate generalized climatic region of interest (*i.e.,* corresponding to the regional heating load hours from ''A'') and determined for each unit in the sample in section 4.2 of appendix M to subpart B of Part 430, divided by the represented value of HSPF, in Btu's per watt-hour, calculated for the appropriate generalized climatic region of interest and corresponding to the above-mentioned standardized design heating requirement, and determined in paragraph (b)(3)(iii);

(iii) The adjustment factor of 0.77; which serves to adjust the calculated design heating requirement and heating load hours to the actual load experienced by a heating system;

(iv) A conversion factor of 0.001 kilowatts per watt; and

(v) The representative average unit cost of electricity in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act; and

(6) *Regional Annual Operating Cost—Total.* For air-source heat pumps that provide both heating and cooling, the estimated regional annual operating cost is the sum of the quantity determined in paragraph (f)(4) of this section added to the quantity determined in paragraph (f)(5) of this section.

(7) *Annual Operating Cost—Rounding.* Round any represented values of estimated annual operating cost determined in paragraphs (f)(1) through (6) of this section to the nearest dollar per year.

4. Section 429.70 is amended by revising paragraph (e) to read as follows:

§ 429.70 Alternative methods for determining energy efficiency or energy use.

* * * * *

(e) *Alternate Efficiency Determination Method (AEDM) for central air conditioners and heat pumps.* This paragraph (e) sets forth the requirements for a manufacturer to use an AEDM to rate central air conditioners and heat pumps.

(1) *Criteria an AEDM must satisfy.* A manufacturer may not apply an AEDM to an individual model/combination to determine its represented values (SEER, EER, HSPF, and/or $P_{W,OFF}$) pursuant to this section unless authorized pursuant to § 429.16(d) and:

(i) The AEDM is derived from a mathematical model that estimates the energy efficiency or energy consumption characteristics of the individual model or combination (SEER, EER, HSPF, and/or $P_{W,OFF}$) as measured by the applicable DOE test procedure; and

(ii) The manufacturer has validated the AEDM in accordance with paragraph (e)(2) of this section.

(2) *Validation of an AEDM.* Before using an AEDM, the manufacturer must validate the AEDM's accuracy and reliability as follows:

(i) The manufacturer must complete testing of each basic model as required under § 429.16(b)(2). Using the AEDM, calculate the energy use or efficiency for each of the tested individual models/combinations within each basic model. Compare the represented value based on testing and the AEDM energy use or efficiency output according to paragraph (e)(2)(ii) of this section. The manufacturer is responsible for ensuring the accuracy and reliability of the AEDM.

(ii) *Individual model/combination tolerances.* This paragraph (e)(2)(ii) provides the tolerances applicable to individual models/combinations rated using an AEDM.

(A) The predicted represented values for each individual model/combination calculated by applying the AEDM may not be more than four percent greater (for measures of efficiency) or less (for measures of consumption) than the values determined from the corresponding test of the individual model/combination.

(B) The predicted energy efficiency or consumption for each individual model/combination calculated by applying the AEDM must meet or exceed the applicable federal energy conservation standard.

(iii) *Additional test unit requirements.* (A) Each AEDM must be supported by test data obtained from physical tests of current individual models/combinations; and

(B) Test results used to validate the AEDM must meet or exceed current, applicable Federal standards as specified in part 430 of this chapter; and

(C) Each test must have been performed in accordance with the applicable DOE test procedure with which compliance is required at the time the individual models/combinations used for validation are distributed in commerce.

(3) *AEDM records retention requirements.* If a manufacturer has used an AEDM to determine representative values pursuant to this section, the manufacturer must have available upon request for inspection by the Department records showing:

(i) The AEDM, including the mathematical model, the engineering or statistical analysis, and/or computer simulation or modeling that is the basis of the AEDM;

(ii) Product information, complete test data, AEDM calculations, and the statistical comparisons from the units tested that were used to validate the AEDM pursuant to paragraph (e)(2) of this section; and

(iii) Product information and AEDM calculations for each individual model/combination to which the AEDM has been applied.

(4) *Additional AEDM requirements.* If requested by the Department, the manufacturer must:

(i) Conduct simulations before representatives of the Department to predict the performance of particular individual models/combinations;

(ii) Provide analyses of previous simulations conducted by the manufacturer; and/or

(iii) Conduct certification testing of individual models or combinations selected by the Department.

(5) *AEDM verification testing.* DOE may use the test data for a given individual model/combination generated pursuant to § 429.104 to verify the represented value determined by an AEDM as long as the following process is followed:

(i) *Selection of units.* DOE will obtain one or more units for test from retail, if available. If units cannot be obtained from retail, DOE will request that a unit be provided by the manufacturer;

(ii) *Lab requirements.* DOE will conduct testing at an independent, third-party testing facility of its choosing. In cases where no third-party laboratory is capable of testing the equipment, testing may be conducted at a manufacturer's facility upon DOE's request.

(iii) *Testing.* At no time during verification testing may the lab and the manufacturer communicate without DOE authorization. If during test set-up or testing, the lab indicates to DOE that it needs additional information regarding a given individual model or combination in order to test in accordance with the applicable DOE test procedure, DOE may organize a meeting between DOE, the manufacturer and the lab to provide such information.

(iv) *Failure to meet certified represented value.* If an individual model/combination tests worse than its certified represented value (*i.e.,* lower than the certified efficiency value or higher than the certified consumption value) by more than 5 percent, or the test results in a different cooling capacity than its certified cooling capacity by more than 5 percent, DOE will notify the manufacturer. DOE will provide the manufacturer with all documentation related to the test set up, test conditions, and test results for the unit. Within the timeframe allotted by DOE, the manufacturer:

(A) May present any and all claims regarding testing validity; and

(B) If not on site for the initial test set-up, must test at least one additional unit of the same individual model or combination obtained from a retail source at its own expense, following the test requirements in § 429.110(a)(3). When testing at an independent lab, the manufacturer may choose to have DOE and the manufacturer present.

(v) *Tolerances.* This paragraph specifies the tolerances DOE will permit when conducting verification testing.

(A) For consumption metrics, the result from a DOE verification test must be less than or equal to 1.05 multiplied by the certified represented value.

(B) For efficiency metrics, the result from a DOE verification test must be greater than or equal to 0.95 multiplied by the certified represented value.

(vi) *Invalid represented value.* If, following discussions with the manufacturer and a retest where applicable, DOE determines that the verification testing was conducted appropriately in accordance with the DOE test procedure, DOE will issue a determination that the represented values for the basic model are invalid. The manufacturer must conduct additional testing and re-rate and re-certify the individual models/combinations within the basic model that were rated using the AEDM based on all test data collected, including DOE's test data.

(vii) *AEDM use.* This paragraph (e)(5)(vii) specifies when a manufacturer's use of an AEDM may be restricted due to prior invalid represented values.

(A) If DOE has determined that a manufacturer made invalid represented values on individual models/combinations within two or more basic models rated using the manufacturer's AEDM within a 24 month period, the manufacturer must test the least efficient and most efficient individual model/combination within each basic model in addition to the individual model/combination specified in § 429.16(b)(2). The twenty-four month period begins with a DOE determination that a represented value is invalid through the process outlined above.

(B) If DOE has determined that a manufacturer made invalid represented values on more than four basic models rated using the manufacturer's AEDM within a 24-month period, the manufacturer may no longer use an AEDM.

(C) If a manufacturer has lost the privilege of using an AEDM, the manufacturer may regain the ability to use an AEDM by:

(*1*) Investigating and identifying cause(s) for failures;

(*2*) Taking corrective action to address cause(s);

(*3*) Performing six new tests per basic model, a minimum of two of which must be performed by an independent, third-party laboratory from units obtained from retail to validate the AEDM; and

(*4*) Obtaining DOE authorization to resume use of an AEDM.

* * * * *

■ 5. Section 429.134 is amended by adding paragraph (k) to read as follows:

§ 429.134 Product-specific enforcement provisions.

* * * * *

(k) *Central air conditioners and heat pumps*—(1) *Verification of cooling capacity.* The cooling capacity of each tested unit of the individual model (for single-package systems) or individual combination (for split systems) will be measured pursuant to the test requirements of § 430.23(m) of this chapter. The mean of the measurement(s) (either the measured cooling capacity for a single unit sample or the average of the measured cooling capacities for a multiple unit sample) will be used to determine the applicable standards for purposes of compliance.

(2) *Verification of* C_D value. (i) For central air conditioners and heat pumps other than models of outdoor units with no match, if manufacturers certify that they did not conduct the optional tests to determine the C_D^c and/or C_D^h value for an individual model (for single-package systems) or individual combination (for split systems), as applicable, the default C_D^c and/or C_D^h value will be used as the basis for calculation of SEER or HSPF for each unit tested. If manufacturers certify that they conducted the optional tests to determine the C_D^c and/or C_D^h value for an individual model (for single-package systems) or individual combination (for split systems), as applicable, the C_D^c and/or C_D^h value will be measured pursuant to the test requirements of § 430.23(m) of this chapter for each unit tested and the result for each unit tested (either the tested value or the default value, as selected according to the criteria for the cyclic test in 10 CFR part 430, subpart B, appendix M, section 3.5e) used as the basis for calculation of SEER or HSPF for that unit.

(ii) For models of outdoor units with no match, DOE will use the default C_D^c and/or C_D^h value pursuant to 10 CFR part 430.

* * * * *

PART 430–ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 6. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 7. Section 430.2 is amended by:

■ a. Removing the definition of ''ARM/simulation adjustment factor;''

■ b. Revising the definitions of ''basic model'' and ''central air conditioner;'' and

■ c. Removing the definitions of ''coil family,'' ''condenser-evaporator coil combination'', ''condensing unit,'' ''evaporator coil'', ''heat pump,'' ''indoor unit,'' ''outdoor unit,'' ''small duct, high velocity system,'' and ''tested combination.''

The revisions read as follows:

§ 430.2 Definitions.

* * * * *

Basic model means all units of a given type of covered product (or class thereof) manufactured by one manufacturer; having the same primary

energy source; and, which have essentially identical electrical, physical, and functional (or hydraulic) characteristics that affect energy consumption, energy efficiency, water consumption, or water efficiency; and

(1) With respect to general service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps: Lamps that have essentially identical light output and electrical characteristics—including lumens per watt (lm/W) and color rendering index (CRI).

(2) With respect to faucets and showerheads: Have the identical flow control mechanism attached to or installed within the fixture fittings, or the identical water-passage design features that use the same path of water in the highest flow mode.

(3) With respect to furnace fans: Are marketed and/or designed to be installed in the same type of installation; and

(4) With respect to central air conditioners and central air conditioning heat pumps essentially identical electrical, physical, and functional (or hydraulic) characteristics means:

(i) For split systems manufactured by outdoor unit manufacturers (OUMs): all individual combinations having the same model of outdoor unit, which means comparably performing compressor(s) [a variation of no more than five percent in displacement rate (volume per time) as rated by the compressor manufacturer, and no more than five percent in capacity and power input for the same operating conditions as rated by the compressor manufacturer], outdoor coil(s) [no more than five percent variation in face area and total fin surface area; same fin material; same tube material], and outdoor fan(s) [no more than ten percent variation in air flow and no more than twenty percent variation in power input];

(ii) For split systems having indoor units manufactured by independent coil manufacturers (ICMs): all individual combinations having comparably performing indoor coil(s) [plus or minus one square foot face area, plus or minus one fin per inch fin density, and the same fin material, tube material, number of tube rows, tube pattern, and tube size]; and

(iii) For single-package systems: all individual models having comparably performing compressor(s) [no more than five percent variation in displacement rate (volume per time) rated by the compressor manufacturer, and no more than five percent variations in capacity and power input rated by the compressor manufacturer corresponding to the same compressor rating conditions], outdoor coil(s) and indoor coil(s) [no more than five percent variation in face area and total fin surface area; same fin material; same tube material], outdoor fan(s) [no more than ten percent variation in outdoor air flow], and indoor blower(s) [no more than ten percent variation in indoor air flow, with no more than twenty percent variation in fan motor power input];

(iv) Except that,

(A) for single-package systems and single-split systems, manufacturers may instead choose to make each individual model/combination its own basic model provided the testing and represented value requirements in 10 CFR 429.16 of this chapter are met; and

(B) For multi-split, multi-circuit, and multi-head mini-split combinations, a basic model may not include both individual small-duct, high velocity (SDHV) combinations and non-SDHV combinations even when they include the same model of outdoor unit. The manufacturer may choose to identify specific individual combinations as additional basic models.

* * * * *

Central air conditioner or central air conditioning heat pump means a product, other than a packaged terminal air conditioner or packaged terminal heat pump, which is powered by single phase electric current, air cooled, rated below 65,000 Btu per hour, not contained within the same cabinet as a furnace, the rated capacity of which is above 225,000 Btu per hour, and is a heat pump or a cooling unit only. A central air conditioner or central air conditioning heat pump may consist of: a single-package unit; an outdoor unit and one or more indoor units; an indoor unit only; or an outdoor unit with no match. In the case of an indoor unit only or an outdoor unit with no match, the unit must be tested and rated as a system (combination of both an indoor and an outdoor unit). For all central air conditioner and central air conditioning heat pump-related definitions, see appendix M of subpart B of this part.

* * * * *

■ 8. Section 430.3 is amended by:
■ a. Adding paragraph (b)(2);
■ b. Revising paragraph (c)(1);
■ c. Adding paragraph (c)(3);
■ d. Revising paragraph (g)(2);
■ e. Removing paragraph (g)(3);
■ f. Redesignating paragraph (g)(4) as (g)(3);
■ g. Adding a new paragraph (g)(4);
■ h. Removing ‘‘, M, ’’ in paragraph (g)(5);
■ i. Removing paragraph (g)(10);
■ j. Redesignating paragraphs (g)(7) through (9) as (g)(8) through (10);
■ k. Adding new paragraph (g)(7);
■ l. Revising newly redesignated paragraphs (g)(8) through (10); and
■ m. Revising paragraph (g)(13).

The revisions and additions read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(b) * * *

(2) ANSI/AMCA 210–07, ANSI/ASHRAE 51–07 (‘‘AMCA 210–2007’’), Laboratory Methods of Testing Fans for Certified Aerodynamic Performance Rating, ANSI approved August 17, 2007, Section 8—Report and Results of Test, Section 8.2—Performance graphical representation of test results, IBR approved for appendix M to subpart B, as follows:

(i) Figure 2A—Static Pressure Tap, and

(ii) Figure 12—Outlet Chamber Setup—Multiple Nozzles in Chamber.

(c) * * *

(1) ANSI/AHRI 210/240–2008 with Addenda 1 and 2 (’’AHRI 210/240–2008’’), 2008 Standard for Performance Rating of Unitary Air-Conditioning & Air-Source Heat Pump Equipment, ANSI approved October 27, 2011 (Addendum 1 dated June 2011 and Addendum 2 dated March 2012), IBR approved for appendix M to subpart B, as follows:

(i) Section 6—Rating Requirements, Section 6.1—Standard Ratings, 6.1.3—Standard Rating Tests, 6.1.3.2—Electrical Conditions;

(ii) Section 6—Rating Requirements, Section 6.1—Standard Ratings, 6.1.3—Standard Rating Tests, 6.1.3.4—Outdoor-Coil Airflow Rate;

(iii) Section 6—Rating Requirements, Section 6.1—Standard Ratings, 6.1.3—Standard Rating Tests, 6.1.3.5—Requirements for Separated Assemblies;

(iv) Figure D1—Tunnel Air Enthalpy Test Method Arrangement;

(v) Figure D2—Loop Air Enthalpy Test Method Arrangement; and

(vi) Figure D4—Room Air Enthalpy Test Method Arrangement.

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(3) ANSI/AHRI 1230–2010 with Addendum 2 (‘‘AHRI 1230–2010’’), 2010 Standard for Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment (including Addendum 1 dated March 2011), ANSI approved August 2, 2010 (Addendum 2 dated June 2014), IBR approved for appendix M to subpart B, as follows:

(i) Section 3—Definitions (except 3.8, 3.9, 3.13, 3.14, 3.15, 3.16, 3.23, 3.24, 3.26, 3.27, 3.28, 3.29, 3.30, and 3.31);

(ii) Section 5—Test Requirements, Section 5.1 (untitled), 5.1.3–5.1.4;

(ii) Section 6—Rating Requirements, Section 6.1—Standard Ratings, 6.1.5—Airflow Requirements for Systems with Capacities <65,000 Btu/h [19,000 W];

(iii) Section 6—Rating Requirements, Section 6.1—Standard Ratings, 6.1.6—Outdoor-Coil Airflow Rate (Applies to all Air-to-Air Systems);

(iv) Section 6—Rating Requirements, Section 6.2—Conditions for Standard Rating Test for Air-cooled Systems < 65,000 Btu/h [19,000W] (except Table 8); and

(v) Table 4—Refrigerant Line Length Correction Factors.

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(g) * * *

(2) ANSI/ASHRAE 23.1–2010, (''ASHRAE 23.1–2010''), Methods of Testing for Rating the Performance of Positive Displacement Refrigerant Compressors and Condensing Units that Operate at Subcritical Temperatures of the Refrigerant, ANSI approved January 28, 2010, IBR approved for appendix M to subpart B, as follows:

(i) Section 5—Requirements;

(ii) Section 6—Instruments;

(iii) Section 7—Methods of Testing; and

(iv) Section 8—Compressor Testing.

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(4) ANSI/ASHRAE Standard 37–2009, (''ANSI/ASHRAE 37–2009''), Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment, ANSI approved June 25, 2009, IBR approved for appendix M to subpart B, as follows:

(i) Section 5—Instruments, Section 5.1—Temperature Measuring Instruments: 5.1.1;

(ii) Section 5—Instruments, Section 5.2—Refrigerant, Liquid, and Barometric Pressure Measuring Instruments;

(iii) Section 5—Instruments, Section 5.5—Volatile Refrigerant Flow Measurement;

(iv) Section 6—Airflow and Air Differential Pressure Measurement Apparatus, Section 6.1—Enthalpy Apparatus (Excluding Figure 3): 6.1.1–6.1.2 and 6.1.4;

(v) Section 6—Airflow and Air Differential Pressure Measurement Apparatus, Section 6.2—Nozzle Airflow Measuring Apparatus (Excluding Figure 5);

(vi) Section 6—Airflow and Air Differential Pressure Measurement Apparatus, Section 6.3—Nozzles (Excluding Figure 6);

(vii) Section 6—Airflow and Air Differential Pressure Measurement Apparatus, Section 6.4—External Static Pressure Measurements;

(viii) Section 6—Airflow and Air Differential Pressure Measurement Apparatus, Section 6.5—Recommended Practices for Static Pressure Measurements;

(ix) Section 7—Methods of Testing and Calculation, Section 7.3—Indoor and Outdoor Air Enthalpy Methods (Excluding Table 1);

(x) Section 7—Methods of Testing and Calculation, Section 7.4—Compressor Calibration Method;

(xi) Section 7—Methods of Testing and Calculation, Section 7.5—Refrigerant Enthalpy Method;

(xii) Section 7—Methods of Testing and Calculation, Section 7.7—Airflow Rate Measurement, Section 7.7.2—Calculations—Nozzle Airflow Measuring Apparatus (Excluding Figure 10), 7.7.2.1–7.7.2.2;

(xiii) Section 8—Test Procedures, Section 8.1—Test Room Requirements: 8.1.2–8.1.3;

(xiv) Section 8—Test Procedures, Section 8.2—Equipment Installation;

(xv) Section 8—Test Procedures, Section 8.6—Additional Requirements for the Outdoor Air Enthalpy Method, Section 8.6.2;

(xvii) Section 8—Test Procedures, Section 8.6—Additional Requirements for the Outdoor Air Enthalpy Method, Table 2a—Test Tolerances (SI Units), and

(xviii) Section 8—Test Procedures, Section 8.6—Additional Requirements for the Outdoor Air Enthalpy Method, Table 2b—Test Tolerances (I–P Units);

(xix) Section 9—Data to be Recorded, Section 9.2—Test Tolerances; and

(xx) Section 9—Data to be Recorded, Table 3—Data to be Recorded.

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(7) ANSI/ASHRAE Standard 41.1–2013, (''ANSI/ASHRAE 41.1–2013''), Standard Method for Temperature Measurement, ANSI approved January 30, 2013, IBR approved for appendix M to subpart B, as follows:

(i) Section 4—Classifications;

(ii) Section 5—Requirements, Section 5.3—Airstream Temperature Measurements;

(iii) Section 6—Instruments; and

(iv) Section 7—Temperature Test Methods (Informative).

(8) ANSI/ASHRAE Standard 41.2–1987 (RA 1992), (''ASHRAE 41.2–1987 (RA 1992)''), Standard Methods for Laboratory Airflow Measurement, ANSI reaffirmed April 20, 1992, Section 5—Section of Airflow-Measuring Equipment and Systems, IBR approved for appendix M to subpart B, as follows:

(i) Section 5.2—Test Ducts,, Section 5.2.2—Mixers, 5.2.2.1—Performance of Mixers (excluding Figures 11 and 12 and Table 1); and

(ii) Figure 14—Outlet Chamber Setup for Multiple Nozzles in Chamber.

(9) ANSI/ASHRAE Standard 41.6–2014, (''ASHRAE 41.6–2014''), Standard Method for Humidity Measurement, ANSI approved July 3, 2014, IBR approved for appendix M to subpart B, as follows:

(i) Section 4—Classifications;

(ii) Section 5—Requirements;

(iii) Section 6—Instruments and Calibration; and

(iv) Section 7—Humidity Measurement Methods.

(10) ANSI/ASHRAE 41.9–2011, (''ASHRAE 41.9–2011''), Standard Methods for Volatile-Refrigerant Mass Flow Measurements Using Calorimeters, ANSI approved February 3, 2011, IBR approved for appendix M to subpart B, as follows:

(i) Section 5—Requirements;

(ii) Section 6—Instruments;

(iii) Section 7—Secondary Refrigerant Calorimeter Method;

(iv) Section 8—Secondary Fluid Calorimeter Method;

(v) Section 9—Primary Refrigerant Calorimeter Method; and

(vi) Section 11—Lubrication Circulation Measurements.

* * * * *

(13) ANSI/ASHRAE Standard 116–2010, (''ASHRAE 116–2010''), Methods of Testing for Rating Seasonal Efficiency of Unitary Air Conditioners and Heat Pumps, ANSI approved February 24, 2010, Section 7—Methods of Test, Section 7.4—Air Enthalpy Method—Indoor Side (Primary Method), Section 7.4.3—Measurements, Section 7.4.3.4—Temperature, Section 7.4.3.4.5, IBR approved for appendix M to subpart B.

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■ 9. Section 430.23 is amended by revising paragraph (m) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(m) *Central air conditioners and heat pumps.* (1) Determine cooling capacity must be determined from the steady-state wet-coil test (A or A2 Test), as described in section 3.3 of appendix M to this subpart, and round off:

(i) To the nearest 50 Btu/h if cooling capacity is less than 20,000 Btu/h,

(ii) To the nearest 100 Btu/h if cooling capacity is greater than or equal to 20,000 Btu/h but less than 38,000 Btu/h, and

(iii) To the nearest 250 Btu/h if cooling capacity is greater than or equal to 38,000 Btu/h and less than 65,000 Btu/h.

(2) Determine seasonal energy efficiency ratio (SEER) as described in section 4.1 of appendix M to this subpart, and round off to the nearest 0.025 Btu/W-h.

(3) Determine energy efficiency ratio (EER) as described in section 4.6 of appendix M to this subpart, and round off to the nearest 0.025 Btu/W-h.

(4) Determine heating seasonal performance factors (HSPF) as described in section 4.2 of appendix M to this subpart, and round off to the nearest 0.025 Btu/W-h.

(5) Determine average off mode power consumption as described in section 4.3 of appendix M to this subpart, and round off to the nearest 0.5 W.

(6) Determine sensible heat ratio (SHR), as described in section 4.5 of appendix M to this subpart, and round off to the nearest 0.5 percent (%).

(7) Determine all other measures of energy efficiency or consumption or other useful measures of performance using appendix M of this subpart.

* * * * *

■ 10. Appendix M to subpart B of part 430 is revised to read as follows:

Appendix M to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners and Heat Pumps

Note: Prior to December 5, 2016, any representations, including compliance certifications, made with respect to the energy use, power, or efficiency of central air conditioners and central air conditioning heat pumps must be based on the results of testing pursuant to either this appendix or the procedures in Appendix M as it appeared at 10 CFR part 430, subpart B, Appendix M, in the 10 CFR parts 200 to 499 edition revised as of January 1, 2015. Any representations made with respect to the energy use or efficiency of such central air conditioners and central air conditioning heat pumps must be in accordance with whichever version is selected.

On or after December 5, 2016 and prior to the compliance date for any amended energy conservation standards, any representations, including compliance certifications, made with respect to the energy use, power, or efficiency of central air conditioners and central air conditioning heat pumps must be based on the results of testing pursuant to this appendix.

On or after the compliance date for any amended energy conservation standards, any representations, including compliance certifications, made with respect to the energy use, power, or efficiency of central air conditioners and central air conditioning heat pumps must be based on the results of testing pursuant to appendix M1 of this subpart.

1. Scope and Definitions

1.1 Scope

This test procedure provides a method of determining SEER, EER, HSPF and $P_{W,OFF}$ for central air conditioners and central air conditioning heat pumps including the following categories:

(a) Split-system air conditioners, including single-split, multi-head mini-split, multi-split (including VRF), and multi-circuit systems

(b) Split-system heat pumps, including single-split, multi-head mini-split, multi-split (including VRF), and multi-circuit systems

(c) Single-package air conditioners

(d) Single-package heat pumps

(e) Small-duct, high-velocity systems (including VRF)

(f) Space-constrained products—air conditioners

(g) Space-constrained products—heat pumps

For purposes of this appendix, the Department of Energy incorporates by reference specific sections of several industry standards, as listed in § 430.3. In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over the incorporated standards.

All section references refer to sections within this appendix unless otherwise stated.

1.2 Definitions

Airflow-control settings are programmed or wired control system configurations that control a fan to achieve discrete, differing ranges of airflow—often designated for performing a specific function (*e.g.,* cooling, heating, or constant circulation)—without manual adjustment other than interaction with a user-operable control (*i.e.,* a thermostat) that meets the manufacturer specifications for installed-use. For the purposes of this appendix, manufacturer specifications for installed-use are those found in the product literature shipped with the unit.

Air sampling device is an assembly consisting of a manifold with several branch tubes with multiple sampling holes that draws an air sample from a critical location from the unit under test (*e.g.* indoor air inlet, indoor air outlet, outdoor air inlet, etc.).

Airflow prevention device denotes a device that prevents airflow via natural convection by mechanical means, such as an air damper box, or by means of changes in duct height, such as an upturned duct.

Aspirating psychrometer is a piece of equipment with a monitored airflow section that draws uniform airflow through the measurement section and has probes for measurement of air temperature and humidity.

Blower coil indoor unit means an indoor unit either with an indoor blower housed with the coil or with a separate designated air mover such as a furnace or a modular blower (as defined in appendix AA to the subpart).

Blower coil system refers to a split system that includes one or more blower coil indoor units.

Cased coil means a coil-only indoor unit with external cabinetry.

Coefficient of Performance (COP) means the ratio of the average rate of space heating delivered to the average rate of electrical energy consumed by the heat pump. These rate quantities must be determined from a single test or, if derived via interpolation, must be determined at a single set of operating conditions. COP is a dimensionless quantity. When determined for a ducted coil-only system, COP must include the sections 3.7 and 3.9.1 of this appendix: default values for the heat output and power input of a fan motor.

Coil-only indoor unit means an indoor unit that is distributed in commerce without an indoor blower or separate designated air mover. A coil-only indoor unit installed in the field relies on a separately-installed furnace or a modular blower for indoor air movement. *Coil-only system* refers to a system that includes only (one or more) coil-only indoor units.

Condensing unit removes the heat absorbed by the refrigerant to transfer it to the outside environment and consists of an outdoor coil, compressor(s), and air moving device.

Constant-air-volume-rate indoor blower means a fan that varies its operating speed to provide a fixed air-volume-rate from a ducted system.

Continuously recorded, when referring to a dry bulb measurement, dry bulb temperature used for test room control, wet bulb temperature, dew point temperature, or relative humidity measurements, means that the specified value must be sampled at regular intervals that are equal to or less than 15 seconds.

Cooling load factor (CLF) means the ratio having as its numerator the total cooling delivered during a cyclic operating interval consisting of one ON period and one OFF period, and as its denominator the total cooling that would be delivered, given the same ambient conditions, had the unit operated continuously at its steady-state, space-cooling capacity for the same total time (ON + OFF) interval.

Crankcase heater means any electrically powered device or mechanism for intentionally generating heat within and/or around the compressor sump volume. Crankcase heater control may be achieved using a timer or may be based on a change in temperature or some other measurable parameter, such that the crankcase heater is not required to operate continuously. A crankcase heater without controls operates continuously when the compressor is not operating.

Cyclic Test means a test where the unit's compressor is cycled on and off for specific time intervals. A cyclic test provides half the information needed to calculate a degradation coefficient.

Damper box means a short section of duct having an air damper that meets the performance requirements of section 2.5.7 of this appendix.

Degradation coefficient (C_D) means a parameter used in calculating the part load factor. The degradation coefficient for cooling is denoted by C_D^c. The degradation coefficient for heating is denoted by C_D^h.

Demand-defrost control system means a system that defrosts the heat pump outdoor coil-only when measuring a predetermined degradation of performance. The heat pump's controls either:

(1) Monitor one or more parameters that always vary with the amount of frost accumulated on the outdoor coil (*e.g.,* coil to air differential temperature, coil differential

air pressure, outdoor fan power or current, optical sensors) at least once for every ten minutes of compressor ON-time when space heating or

(2) Operate as a feedback system that measures the length of the defrost period and adjusts defrost frequency accordingly. In all cases, when the frost parameter(s) reaches a predetermined value, the system initiates a defrost. In a demand-defrost control system, defrosts are terminated based on monitoring a parameter(s) that indicates that frost has been eliminated from the coil. (Note: Systems that vary defrost intervals according to outdoor dry-bulb temperature are not demand-defrost systems.) A demand-defrost control system, which otherwise meets the above requirements, may allow time-initiated defrosts if, and only if, such defrosts occur after 6 hours of compressor operating time.

Design heating requirement (DHR) predicts the space heating load of a residence when subjected to outdoor design conditions. Estimates for the minimum and maximum DHR are provided for six generalized U.S. climatic regions in section 4.2 of this appendix.

Dry-coil tests are cooling mode tests where the wet-bulb temperature of the air supplied to the indoor unit is maintained low enough that no condensate forms on the evaporator coil.

Ducted system means an air conditioner or heat pump that is designed to be permanently installed equipment and delivers conditioned air to the indoor space through a duct(s). The air conditioner or heat pump may be either a split-system or a single-package unit.

Energy efficiency ratio (EER) means the ratio of the average rate of space cooling delivered to the average rate of electrical energy consumed by the air conditioner or heat pump. These rate quantities must be determined from a single test or, if derived via interpolation, must be determined at a single set of operating conditions. EER is expressed in units of Btu/h. When determined for a ducted coil-only system, EER must include, from this appendix, the section 3.3 and 3.5.1 default values for the heat output and power input of a fan motor.

Evaporator coil means an assembly that absorbs heat from an enclosed space and transfers the heat to a refrigerant.

Heat pump means a kind of central air conditioner that utilizes an indoor conditioning coil, compressor, and refrigerant-to-outdoor air heat exchanger to provide air heating, and may also provide air cooling, air dehumidifying, air humidifying, air circulating, and air cleaning.

Heat pump having a heat comfort controller means a heat pump with controls that can regulate the operation of the electric resistance elements to assure that the air temperature leaving the indoor section does not fall below a specified temperature. Heat pumps that actively regulate the rate of electric resistance heating when operating below the balance point (as the result of a second stage call from the thermostat) but do not operate to maintain a minimum delivery temperature are not considered as having a heat comfort controller.

Heating load factor (HLF) means the ratio having as its numerator the total heating delivered during a cyclic operating interval consisting of one ON period and one OFF period, and its denominator the heating capacity measured at the same test conditions used for the cyclic test, multiplied by the total time interval (ON plus OFF) of the cyclic-test.

Heating season means the months of the year that require heating, *e.g.,* typically, and roughly, October through April.

Heating seasonal performance factor (HSPF) means the total space heating required during the heating season, expressed in Btu's, divided by the total electrical energy consumed by the heat pump system during the same season, expressed in watt-hours. The HSPF used to evaluate compliance with 10 CFR 430.32(c) is based on Region IV, the minimum standardized design heating requirement, and the sampling plan stated in 10 CFR 429.16(a).

Independent coil manufacturer (ICM) means a manufacturer that manufactures indoor units but does not manufacture single-package units or outdoor units.

Indoor unit means a separate assembly of a split system that includes—

(1) An arrangement of refrigerant-to-air heat transfer coil(s) for transfer of heat between the refrigerant and the indoor air,

(2) A condensate drain pan, and may or may not include

(3) Sheet metal or plastic parts not part of external cabinetry to direct/route airflow over the coil(s),

(4) A cooling mode expansion device,

(5) External cabinetry, and

(6) An integrated indoor blower (*i.e.* a device to move air including its associated motor). A separate designated air mover that may be a furnace or a modular blower (as defined in appendix AA to the subpart) may be considered to be part of the indoor unit. A service coil is not an indoor unit.

Multi-head mini-split system means a split system that has one outdoor unit and that has two or more indoor units connected with a single refrigeration circuit. The indoor units operate in unison in response to a single indoor thermostat.

Multiple-circuit (or multi-circuit) system means a split system that has one outdoor unit and that has two or more indoor units installed on two or more refrigeration circuits such that each refrigeration circuit serves a compressor and one and only one indoor unit, and refrigerant is not shared from circuit to circuit.

Multiple-split (or multi-split) system means a split system that has one outdoor unit and two or more coil-only indoor units and/or blower coil indoor units connected with a single refrigerant circuit. The indoor units operate independently and can condition multiple zones in response to at least two indoor thermostats or temperature sensors. The outdoor unit operates in response to independent operation of the indoor units based on control input of multiple indoor thermostats or temperature sensors, and/or based on refrigeration circuit sensor input (*e.g.,* suction pressure).

Nominal capacity means the capacity that is claimed by the manufacturer on the product name plate. Nominal cooling capacity is approximate to the air conditioner cooling capacity tested at A or A2 condition. Nominal heating capacity is approximate to the heat pump heating capacity tested in H12 test (or the optional H1N test).

Non-ducted indoor unit means an indoor unit that is designed to be permanently installed, mounted on room walls and/or ceilings, and that directly heats or cools air within the conditioned space.

Normalized Gross Indoor Fin Surface (NGIFS) means the gross fin surface area of the indoor unit coil divided by the cooling capacity measured for the A or A2 Test, whichever applies.

Off-mode power consumption means the power consumption when the unit is connected to its main power source but is neither providing cooling nor heating to the building it serves.

Off-mode season means, for central air conditioners other than heat pumps, the shoulder season and the entire heating season; and for heat pumps, the shoulder season only.

Outdoor unit means a separate assembly of a split system that transfers heat between the refrigerant and the outdoor air, and consists of an outdoor coil, compressor(s), an air moving device, and in addition for heat pumps, may include a heating mode expansion device, reversing valve, and/or defrost controls.

Outdoor unit manufacturer (OUM) means a manufacturer of single-package units, outdoor units, and/or both indoor units and outdoor units.

Part-load factor (PLF) means the ratio of the cyclic EER (or COP for heating) to the steady-state EER (or COP), where both EERs (or COPs) are determined based on operation at the same ambient conditions.

Seasonal energy efficiency ratio (SEER) means the total heat removed from the conditioned space during the annual cooling season, expressed in Btu's, divided by the total electrical energy consumed by the central air conditioner or heat pump during the same season, expressed in watt-hours.

Service coil means an arrangement of refrigerant-to-air heat transfer coil(s), condensate drain pan, sheet metal or plastic parts to direct/route airflow over the coil(s), which may or may not include external cabinetry and/or a cooling mode expansion device, distributed in commerce solely for the intent of replacing an uncased coil or cased coil that has already been placed into service, and that has been labeled accordingly by the manufacturer.

Shoulder season means the months of the year in between those months that require cooling and those months that require heating, *e.g.,* typically, and roughly, April through May, and September through October.

Single-package unit means any central air conditioner or heat pump that has all major assemblies enclosed in one cabinet.

Single-split system means a split system that has one outdoor unit and one indoor unit connected with a single refrigeration circuit. *Small-duct, high-velocity system* means a split system for which all indoor units are blower coil indoor units that produce at least 1.2 inches (of water column) of external static pressure when operated at

the full-load air volume rate certified by the manufacturer of at least 220 scfm per rated ton of cooling.

Split system means any air conditioner or heat pump that has at least two separate assemblies that are connected with refrigerant piping when installed. One of these assemblies includes an indoor coil that exchanges heat with the indoor air to provide heating or cooling, while one of the others includes an outdoor coil that exchanges heat with the outdoor air. Split systems may be either blower coil systems or coil-only systems.

Standard Air means dry air having a mass density of 0.075 lb/ft^3.

Steady-state test means a test where the test conditions are regulated to remain as constant as possible while the unit operates continuously in the same mode.

Temperature bin means the 5 °F increments that are used to partition the outdoor dry-bulb temperature ranges of the cooling (≥65 °F) and heating (<65 °F) seasons.

Test condition tolerance means the maximum permissible difference between the average value of the measured test parameter and the specified test condition.

Test operating tolerance means the maximum permissible range that a measurement may vary over the specified test interval. The difference between the maximum and minimum sampled values must be less than or equal to the specified test operating tolerance.

Tested combination means a multi-head mini-split, multi-split, or multi-circuit system having the following features:

(1) The system consists of one outdoor unit with one or more compressors matched with between two and five indoor units;

(2) The indoor units must:

(i) Collectively, have a nominal cooling capacity greater than or equal to 95 percent and less than or equal to 105 percent of the nominal cooling capacity of the outdoor unit;

(ii) Each represent the highest sales volume model family, if this is possible while meeting all the requirements of this section. If this is not possible, one or more of the indoor units may represent another indoor model family in order that all the other requirements of this section are met.

(iii) Individually not have a nominal cooling capacity greater than 50 percent of the nominal cooling capacity of the outdoor unit, unless the nominal cooling capacity of the outdoor unit is 24,000 Btu/h or less;

(iv) Operate at fan speeds consistent with manufacturer's specifications; and

(v) All be subject to the same minimum external static pressure requirement while able to produce the same external static pressure at the exit of each outlet plenum when connected in a manifold configuration as required by the test procedure.

(3) Where referenced, ''nominal cooling capacity'' means, for indoor units, the highest cooling capacity listed in published product literature for 95 °F outdoor dry bulb temperature and 80 °F dry bulb, 67 °F wet bulb indoor conditions, and for outdoor units, the lowest cooling capacity listed in published product literature for these conditions. If incomplete or no operating conditions are published, the highest (for indoor units) or lowest (for outdoor units) such cooling capacity available for sale must be used.

Time-adaptive defrost control system is a demand-defrost control system that measures the length of the prior defrost period(s) and uses that information to automatically determine when to initiate the next defrost cycle.

Time-temperature defrost control systems initiate or evaluate initiating a defrost cycle only when a predetermined cumulative compressor ON-time is obtained. This predetermined ON-time is generally a fixed value (*e.g.,* 30, 45, 90 minutes) although it may vary based on the measured outdoor dry-bulb temperature. The ON-time counter accumulates if controller measurements (*e.g.,* outdoor temperature, evaporator temperature) indicate that frost formation conditions are present, and it is reset/remains at zero at all other times. In one application of the control scheme, a defrost is initiated whenever the counter time equals the predetermined ON-time. The counter is reset when the defrost cycle is completed.

In a second application of the control scheme, one or more parameters are measured (*e.g.,* air and/or refrigerant temperatures) at the predetermined, cumulative, compressor ON-time. A defrost is initiated only if the measured parameter(s) falls within a predetermined range. The ON-time counter is reset regardless of whether or not a defrost is initiated. If systems of this second type use cumulative ON-time intervals of 10 minutes or less, then the heat pump may qualify as having a demand defrost control system (see definition).

Triple-capacity, northern heat pump means a heat pump that provides two stages of cooling and three stages of heating. The two common stages for both the cooling and heating modes are the low capacity stage and the high capacity stage. The additional heating mode stage is the booster capacity stage, which offers the highest heating capacity output for a given set of ambient operating conditions.

Triple-split system means a split system that is composed of three separate assemblies: An outdoor fan coil section, a blower coil indoor unit, and an indoor compressor section.

Two-capacity (or two-stage) compressor system means a central air conditioner or heat pump that has a compressor or a group of compressors operating with only two stages of capacity. For such systems, low capacity means the compressor(s) operating at low stage, or at low load test conditions. The low compressor stage that operates for heating mode tests may be the same or different from the low compressor stage that operates for cooling mode tests. For such systems, high capacity means the compressor(s) operating at high stage, or at full load test conditions.

Two-capacity, northern heat pump means a heat pump that has a factory or field-selectable lock-out feature to prevent space cooling at high-capacity. Two-capacity heat pumps having this feature will typically have two sets of ratings, one with the feature disabled and one with the feature enabled. The heat pump is a two-capacity northern heat pump only when this feature is enabled at all times. The certified indoor coil model number must reflect whether the ratings pertain to the lockout enabled option via the inclusion of an extra identifier, such as ''+LO''. When testing as a two-capacity, northern heat pump, the lockout feature must remain enabled for all tests.

Uncased coil means a coil-only indoor unit without external cabinetry.

Variable refrigerant flow (VRF) system means a multi-split system with at least three compressor capacity stages, distributing refrigerant through a piping network to multiple indoor blower coil units each capable of individual zone temperature control, through proprietary zone temperature control devices and a common communications network. Note: Single-phase VRF systems less than 65,000 Btu/h are central air conditioners and central air conditioning heat pumps.

Variable-speed compressor system means a central air conditioner or heat pump that has a compressor that uses a variable-speed drive to vary the compressor speed to achieve variable capacities.

Wet-coil test means a test conducted at test conditions that typically cause water vapor to condense on the test unit evaporator coil.

2. Testing Overview and Conditions

(A) Test VRF systems using AHRI 1230–2010 (incorporated by reference, see § 430.3) and appendix M. Where AHRI 1230–2010 refers to the appendix C therein substitute the provisions of this appendix. In cases where there is a conflict, the language of the test procedure in this appendix takes precedence over AHRI 1230–2010.

For definitions use section 1 of appendix M and section 3 of AHRI 1230–2010 (incorporated by reference, see § 430.3). For rounding requirements, refer to § 430.23(m). For determination of certified ratings, refer to § 429.16 of this chapter.

For test room requirements, refer to section 2.1 of this appendix. For test unit installation requirements refer to sections 2.2.a, 2.2.b, 2.2.c, 2.2.1, 2.2.2, 2.2.3(a), 2.2.3(c), 2.2.4, 2.2.5, and 2.4 to 2.12 of this appendix, and sections 5.1.3 and 5.1.4 of AHRI 1230–2010. The ''manufacturer's published instructions,'' as stated in section 8.2 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3) and ''manufacturer's installation instructions'' discussed in this appendix mean the manufacturer's installation instructions that come packaged with or appear in the labels applied to the unit. This does not include online manuals. Installation instructions that appear in the labels applied to the unit take precedence over installation instructions that are shipped with the unit.

For general requirements for the test procedure, refer to section 3.1 of this appendix, except for sections 3.1.3 and 3.1.4, which are requirements for indoor air volume and outdoor air volume. For indoor air volume and outdoor air volume requirements, refer instead to section 6.1.5 (except where section 6.1.5 refers to Table 8, refer instead to Table 3 of this appendix) and 6.1.6 of AHRI 1230–2010.

For the test method, refer to sections 3.3 to 3.5 and 3.7 to 3.13 of this appendix. For cooling mode and heating mode test

conditions, refer to section 6.2 of AHRI 1230–2010. For calculations of seasonal performance descriptors, refer to section 4 of this appendix.

(B) For systems other than VRF, only a subset of the sections listed in this test procedure apply when testing and determining represented values for a particular unit. Table 1 shows the sections of the test procedure that apply to each system. This table is meant to assist manufacturers in finding the appropriate sections of the test procedure; the appendix sections rather than the table provide the specific requirements for testing, and given the varied nature of available units, manufacturers are responsible for determining which sections apply to each unit tested based on the unit's characteristics. To use this table, first refer to the sections listed under ''all units''. Then refer to additional requirements based on:

(1) System configuration(s),

(2) The compressor staging or modulation capability, and

(3) Any special features.

Testing requirements for space-constrained products do not differ from similar equipment that is not space-constrained and thus are not listed separately in this table. Air conditioners and heat pumps are not listed separately in this table, but heating procedures and calculations apply only to heat pumps.

Table 1—Informative Guidance for Using Appendix M

			Testing conditions	Testing procedures			Calculations		
			General	General	Cooling*	Heating**	Gen-eral	Cool-ing*	Heat-ing**
Requirements for all units (except VRF)			2.1; 2.2a-c; 2.2.1; 2.2.4; 2.2.4.1; 2.2.4.1 (1); 2.2.4.2; 2.2.5.1-5; 2.2.5.7-8; 2.3; 2.3.1; 2.3.2; 2.4; 2.4.1a,d; 2.5a-c; 2.5.1; 2.5.2 - 2.5.4.2; 2.5.5 – 2.13	3.1; 3.1.1-3; 3.1.5-9; 3.11; 3.12	3.3; 3.4; 3.5a-i	3.1.4.7; 3.1.10; 3.7a,b,d; 3.8a,d; 3.8.1; 3.9; 3.10	4.4; 4.5	4.1	4.2
Additional Requirements	System Configurations (more than one may apply)	Single-split system – blower coil	2.2a(1)		3.1.4.1.1; 3.1.4.1.1a,b; 3.1.4.2a-b; 3.1.4.3a-b	3.1.4.4.1; 3.1.4.4.2; 3.1.4.4.3a-b; 3.1.4.5.1; 3.1.4.5.2a-c; 3.1.4.6a-b			
		Single-split system - coil-only	2.2a(1); 2.2d,e; 2.4.2		3.1.4.1.1; 3.1.4.1.1c; 3.1.4.2c; 3.5.1	3.1.4.4.1; 3.1.4.4.2; 3.1.4.4.3c; 3.1.4.5.2d; 3.7c; 3.8b; 3.9f; 3.9.1b			
		Tri-split	2.2a(2)						
		Outdoor unit with no match	2.2e						
		Single-package	2.2.4.1(2); 2.2.5.6b; 2.4.2		3.1.4.1.1; 3.1.4.1.1a,b; 3.1.4.2a-b; 3.1.4.3a-b	3.1.4.4.1; 3.1.4.4.2; 3.1.4.4.3a-b; 3.1.4.5.1; 3.1.4.5.2a-c; 3.1.4.6a-b			
		Heat pump	2.2.5.6.a						
		Heating-only heat pump			3.1.4.1.1 Table 4	3.1.4.4.3			

		Two-capacity northern heat pump		3.1.4.4.2c; 3.1.4.5.2 c- d	3.2.3c	3.6.3			
		Triple-capacity northern heat pump			3.2.5	3.6.6			4.2.6
		SDHV (non-VRF)	2.2b; 2.4.1c; 2.5.4.3						
		Single- zone-multi-coil split and non-VRF multiple-split with duct	2.2a(1),(3); 2.2.3; 2.4.1b		3.1.4.1.1; 3.1.4.1.1a-b; 3.1.4.2a-b; 3.1.4.3a-b	3.1.4.4.1; 3.1.4.4.2; 3.1.4.4.3a-b; 3.1.4.5.1; 3.1.4.5.2a-c; 3.1.4.6a-b			
		Single-zone-multi-coil split and non-VRF multiple-split, ductless	2.2.a(1),(3); 2.2.3		3.1.4.1.2; 3.1.4.2d; 3.1.4.3c; 3.2.4c; 3.5c,g,h; 3.5.2; 3.8c	3.1.4.4.4; 3.1.4.5.2e; 3.1.4.6c; 3.6.4.c; 3.8c			
		VRF multiple-split† and VRF SDHV†	2.1; 2.2.a; 2.2.b; 2.2.c; 2.2.1; 2.2.2; 2.2.3(a); 2.2.3(c);, 2.2.4; 2.2.5; 2.4-2.12	3.1 (except 3.1.3, 3.1.4) 3.1.4.1.1c; 3.11-3.13	3.3-3.5	3.7–3.10	4.4; 4.5	4.1	4.2
	Modulation Capability	Single speed compressor, fixed air volume rate			3.2.1	3.6.1		4.1.1	4.2.1
		Single speed compressor, VAV fan			3.2.2	3.6.2		4.1.2	4.2.2
		Two-capacity compressor		3.1.10	3.2.3	3.6.3		4.1.3	4.2.3
		Variable speed compressor			3.2.4	3.6.4		4.1.4	4.2.4
	Special Features	Heat pump with heat comfort controller				3.6.5			4.2.5
		Units with a multi-speed outdoor fan	2.2.2						
		Single indoor unit having multiple indoor blowers			3.2.6	3.6.2; 3.6.7		4.1.5	4.2.7

*Does not apply to heating-only heat pumps.

**Applies only to heat pumps; not to air conditioners.

†Use AHRI 1230-2010 (incorporated by reference, see § 430.3), with the sections referenced in section 2(A) of this appendix, in conjunction with the sections set forth in the table to perform test setup, testing, and calculations for determining represented values for VRF multiple-split and VRF SDHV systems.

NOTE: For all units, use section 3.13 of this appendix for off mode testing procedures and section 4.3 of this appendix for off mode calculations. For all units subject to an EER standard, use section 4.6 of this appendix to determine the energy efficiency ratio.

2.1 Test Room Requirements

a. Test using two side-by-side rooms: An indoor test room and an outdoor test room. For multiple-split, single-zone-multi-coil or multi-circuit air conditioners and heat pumps, however, use as many indoor test rooms as needed to accommodate the total number of indoor units. These rooms must comply with the requirements specified in sections 8.1.2 and 8.1.3 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3).

b. Inside these test rooms, use artificial loads during cyclic tests and frost accumulation tests, if needed, to produce stabilized room air temperatures. For one room, select an electric resistance heater(s) having a heating capacity that is approximately equal to the heating capacity of the test unit's condenser. For the second room, select a heater(s) having a capacity that is close to the sensible cooling capacity of the test unit's evaporator. Cycle the heater located in the same room as the test unit evaporator coil ON and OFF when the test unit cycles ON and OFF. Cycle the heater located in the same room as the test unit condensing coil ON and OFF when the test unit cycles OFF and ON.

2.2 Test Unit Installation Requirements

a. Install the unit according to section 8.2 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3), subject to the following additional requirements:

(1) When testing split systems, follow the requirements given in section 6.1.3.5 of AHRI 210/240–2008 (incorporated by reference, see § 430.3). For the vapor refrigerant line(s), use the insulation included with the unit; if no insulation is provided, use insulation meeting the specifications for the insulation in the installation instructions included with the unit by the manufacturer; if no insulation is included with the unit and the installation instructions do not contain provisions for insulating the line(s), fully insulate the vapor refrigerant line(s) with vapor proof insulation having an inside diameter that matches the refrigerant tubing and a nominal thickness of at least 0.5 inches. For the liquid refrigerant line(s), use the insulation included with the unit; if no insulation is provided, use insulation meeting the specifications for the insulation in the installation instructions included with the unit by the manufacturer; if no insulation is included with the unit and the installation instructions do not contain provisions for insulating the line(s), leave the liquid refrigerant line(s) exposed to the air for air conditioners and heat pumps that heat and cool; or, for heating-only heat pumps, insulate the liquid refrigerant line(s) with insulation having an inside diameter that matches the refrigerant tubing and a nominal thickness of at least 0.5 inches. Insulation must be the same for the cooling and heating tests.

(2) When testing split systems, if the indoor unit does not ship with a cooling mode expansion device, test the system using the device as specified in the installation instructions provided with the indoor unit. If none is specified, test the system using a fixed orifice or piston type expansion device that is sized appropriately for the system.

(3) When testing triple-split systems (see section 1.2 of this appendix, Definitions), use the tubing length specified in section 6.1.3.5 of AHRI 210/240–2008 (incorporated by reference, see § 430.3) to connect the outdoor coil, indoor compressor section, and indoor coil while still meeting the requirement of exposing 10 feet of the tubing to outside conditions;

(4) When testing split systems having multiple indoor coils, connect each indoor blower coil unit to the outdoor unit using:

(a) 25 feet of tubing, or

(b) tubing furnished by the manufacturer, whichever is longer.

At least 10 feet of the system interconnection tubing shall be exposed to the outside conditions. If they are needed to make a secondary measurement of capacity or for verification of refrigerant charge, install refrigerant pressure measuring instruments as described in section 8.2.5 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3). Section 2.10 of this appendix specifies which secondary methods require refrigerant pressure measurements and section 2.2.5.5 of this appendix discusses use of pressure measurements to verify charge. At a minimum, insulate the low-pressure line(s) of a split system with insulation having an inside diameter that matches the refrigerant tubing and a nominal thickness of 0.5 inch.

b. For units designed for both horizontal and vertical installation or for both up-flow and down-flow vertical installations, use the orientation for testing specified by the manufacturer in the certification report. Conduct testing with the following installed:

(1) The most restrictive filter(s);

(2) Supplementary heating coils; and

(3) Other equipment specified as part of the unit, including all hardware used by a heat comfort controller if so equipped (see section 1 of this appendix, Definitions). For small-duct, high-velocity systems, configure all balance dampers or restrictor devices on or inside the unit to fully open or lowest restriction.

c. Testing a ducted unit without having an indoor air filter installed is permissible as long as the minimum external static pressure requirement is adjusted as stated in Table 3, note 3 (see section 3.1.4 of this appendix). Except as noted in section 3.1.10 of this appendix, prevent the indoor air supplementary heating coils from operating during all tests. For uncased coils, create an enclosure using 1 inch fiberglass foil-faced ductboard having a nominal density of 6 pounds per cubic foot. Or alternatively, construct an enclosure using sheet metal or a similar material and insulating material having a thermal resistance (''R'' value) between 4 and 6 hr·ft^2· °F/Btu. Size the enclosure and seal between the coil and/or drainage pan and the interior of the enclosure as specified in installation instructions shipped with the unit. Also seal between the plenum and inlet and outlet ducts. For cased coils, no extra insulating or sealing is allowed.

d. When testing a coil-only system, install a toroidal-type transformer to power the system's low-voltage components, complying with any additional requirements for the transformer mentioned in the installation manuals included with the unit by the system manufacturer. If the installation manuals do not provide specifications for the transformer, use a transformer having the following features:

(1) A nominal volt-amp rating such that the transformer is loaded between 25 and 90 percent of this rating for the highest level of power measured during the off mode test (section 3.13 of this appendix);

(2) Designed to operate with a primary input of 230 V, single phase, 60 Hz; and

(3) That provides an output voltage that is within the specified range for each low-voltage component. Include the power consumption of the components connected to the transformer as part of the total system power consumption during the off mode tests; do not include the power consumed by the transformer when no load is connected to it.

e. Test an outdoor unit with no match (*i.e.,* that is not distributed in commerce with any indoor units) using a coil-only indoor unit with a single cooling air volume rate whose coil has:

(1) Round tubes of outer diameter no less than 0.375 inches, and

(2) a normalized gross indoor fin surface (NGIFS) no greater than 1.0 square inches per British thermal unit per hour (sq. in./Btu/hr). NGIFS is calculated as follows:

$$NGIFS = 2 \times L_f \times W_f \times N_f \div \dot{Q}_c \quad (95)$$

Where:

L_f = Indoor coil fin length in inches, also height of the coil transverse to the tubes.

W_f = Indoor coil fin width in inches, also depth of the coil.

N_f = Number of fins.

$\dot{Q}_c(95)$ = the measured space cooling capacity of the tested outdoor unit/indoor unit combination as determined from the A2 or A Test whichever applies, Btu/h.

f If the outdoor unit or the outdoor portion of a single-package unit has a drain pan heater to prevent freezing of defrost water, the heater shall be energized, subject to control to de-energize it when not needed by the heater's thermostat or the unit's control system, for all tests.

2.2.1 Defrost Control Settings

Set heat pump defrost controls at the normal settings which most typify those encountered in generalized climatic region IV. (Refer to Figure 1 and Table 19 of section 4.2 of this appendix for information on region IV.) For heat pumps that use a time-adaptive defrost control system (see section 1.2 of this appendix, Definitions), the manufacturer must specify in the certification report the frosting interval to be used during frost accumulation tests and provide the procedure for manually initiating the defrost at the specified time.

2.2.2 Special Requirements for Units Having a Multiple-Speed Outdoor Fan

Configure the multiple-speed outdoor fan according to the installation manual included with the unit by the manufacturer, and thereafter, leave it unchanged for all tests. The controls of the unit must regulate the operation of the outdoor fan during all lab tests except dry coil cooling mode tests. For dry coil cooling mode tests, the outdoor fan

must operate at the same speed used during the required wet coil test conducted at the same outdoor test conditions.

2.2.3 Special Requirements for Multi-Split Air Conditioners and Heat Pumps and Ducted Systems Using a Single Indoor Section Containing Multiple Indoor Blowers That Would Normally Operate Using Two or More Indoor Thermostats

Because these systems will have more than one indoor blower and possibly multiple outdoor fans and compressor systems, references in this test procedure to a singular indoor blower, outdoor fan, and/or compressor means all indoor blowers, all outdoor fans, and all compressor systems that are energized during the test.

a. Additional requirements for multi-split air conditioners and heat pumps. For any test where the system is operated at part load (*i.e.,* one or more compressors ''off'', operating at the intermediate or minimum compressor speed, or at low compressor capacity), the manufacturer must designate in the certification report the indoor coil(s) that are not providing heating or cooling during the test such that the sum of the nominal heating or cooling capacity of the operational indoor units is within 5 percent of the intended part load heating or cooling capacity. For variable-speed systems, the manufacturer must designate in the certification report at least one indoor unit that is not providing heating or cooling for all tests conducted at minimum compressor speed. For all other part-load tests, the manufacturer must choose to turn off zero, one, two, or more indoor units. The chosen configuration must remain unchanged for all tests conducted at the same compressor speed/capacity. For any indoor coil that is not providing heating or cooling during a test, cease forced airflow through this indoor coil and block its outlet duct.

b. Additional requirements for ducted split systems with a single indoor unit containing multiple indoor blowers (or for single-package units with an indoor section containing multiple indoor blowers) where the indoor blowers are designed to cycle on and off independently of one another and are not controlled such that all indoor blowers are modulated to always operate at the same air volume rate or speed. For any test where the system is operated at its lowest capacity—*i.e.,* the lowest total air volume rate allowed when operating the single-speed compressor or when operating at low compressor capacity—indoor blowers accounting for at least one-third of the full-load air volume rate must be turned off unless prevented by the controls of the unit. In such cases, turn off as many indoor blowers as permitted by the unit's controls. Where more than one option exists for meeting this ''off'' requirement, the manufacturer shall indicate in its certification report which indoor blower(s) are turned off. The chosen configuration shall remain unchanged for all tests conducted at the same lowest capacity configuration. For any indoor coil turned off during a test, cease forced airflow through any outlet duct connected to a switched-off indoor blower.

c. For test setups where the laboratory's physical limitations requires use of more than the required line length of 25 feet as listed in section 2.2.a(4) of this appendix, then the actual refrigerant line length used by the laboratory may exceed the required length and the refrigerant line length correction factors in Table 4 of AHRI 1230–2010 are applied to the cooling capacity measured for each cooling mode test.

2.2.4 Wet-Bulb Temperature Requirements for the Air Entering the Indoor and Outdoor Coils

2.2.4.1 Cooling Mode Tests

For wet-coil cooling mode tests, regulate the water vapor content of the air entering the indoor unit so that the wet-bulb temperature is as listed in Tables 4 to 7. As noted in these same tables, achieve a wet-bulb temperature during dry-coil cooling mode tests that results in no condensate forming on the indoor coil. Controlling the water vapor content of the air entering the outdoor side of the unit is not required for cooling mode tests except when testing:

(1) Units that reject condensate to the outdoor coil during wet coil tests. Tables 4–7 list the applicable wet-bulb temperatures.

(2) Single-package units where all or part of the indoor section is located in the outdoor test room. The average dew point temperature of the air entering the outdoor coil during wet coil tests must be within ±3.0 °F of the average dew point temperature of the air entering the indoor coil over the 30-minute data collection interval described in section 3.3 of this appendix. For dry coil tests on such units, it may be necessary to limit the moisture content of the air entering the outdoor coil of the unit to meet the requirements of section 3.4 of this appendix.

2.2.4.2 Heating Mode Tests

For heating mode tests, regulate the water vapor content of the air entering the outdoor unit to the applicable wet-bulb temperature listed in Tables 11 to 14. The wet-bulb temperature entering the indoor side of the heat pump must not exceed 60 °F. Additionally, if the Outdoor Air Enthalpy test method (section 2.10.1 of this appendix) is used while testing a single-package heat pump where all or part of the outdoor section is located in the indoor test room, adjust the wet-bulb temperature for the air entering the indoor side to yield an indoor-side dew point temperature that is as close as reasonably possible to the dew point temperature of the outdoor-side entering air.

2.2.5 Additional Refrigerant Charging Requirements

2.2.5.1 Instructions To Use for Charging

a. Where the manufacturer's installation instructions contain two sets of refrigerant charging criteria, one for field installations and one for lab testing, use the field installation criteria.

b. For systems consisting of an outdoor unit manufacturer's outdoor section and indoor section with differing charging procedures, adjust the refrigerant charge per the outdoor installation instructions.

c. For systems consisting of an outdoor unit manufacturer's outdoor unit and an independent coil manufacturer's indoor unit with differing charging procedures, adjust the refrigerant charge per the indoor unit's installation instructions. If instructions are provided only with the outdoor unit or are provided only with an independent coil manufacturer's indoor unit, then use the provided instructions.

2.2.5.2 Test(s) To Use for Charging

a. Use the tests or operating conditions specified in the manufacturer's installation instructions for charging. The manufacturer's installation instructions may specify use of tests other than the A or A_2 test for charging, but, unless the unit is a heating-only heat pump, the air volume rate must be determined by the A or A_2 test as specified in section 3.1 of this appendix.

b. If the manufacturer's installation instructions do not specify a test or operating conditions for charging or there are no manufacturer's instructions, use the following test(s):

(1) For air conditioners or cooling and heating heat pumps, use the A or A_2 test.

(2) For cooling and heating heat pumps that do not operate in the H1 or $H1_2$ test (*e.g.,* due to shut down by the unit limiting devices) when tested using the charge determined at the A or A_2 test, and for heating-only heat pumps, use the H1 or $H1_2$ test.

2.2.5.3 Parameters To Set and Their Target Values

a. Consult the manufacturer's installation instructions regarding which parameters (*e.g.,* superheat) to set and their target values. If the instructions provide ranges of values, select target values equal to the midpoints of the provided ranges.

b. In the event of conflicting information between charging instructions (*i.e.,* multiple conditions given for charge adjustment where all conditions specified cannot be met), follow the following hierarchy.

(1) For fixed orifice systems:

(i) Superheat

(ii) High side pressure or corresponding saturation or dew-point temperature

(iii) Low side pressure or corresponding saturation or dew-point temperature

(iv) Low side temperature

(v) High side temperature

(vi) Charge weight

(2) For expansion valve systems:

(i) Subcooling

(ii) High side pressure or corresponding saturation or dew-point temperature

(iii) Low side pressure or corresponding saturation or dew-point temperature

(iv) Approach temperature (difference between temperature of liquid leaving condenser and condenser average inlet air temperature)

(v) Charge weight

c. If there are no installation instructions and/or they do not provide parameters and target values, set superheat to a target value of 12 °F for fixed orifice systems or set subcooling to a target value of 10 °F for expansion valve systems.

2.2.5.4 Charging Tolerances

a. If the manufacturer's installation instructions specify tolerances on target values for the charging parameters, set the values within these tolerances.

b. Otherwise, set parameter values within the following test condition tolerances for the different charging parameters:

(1) Superheat: +/− 2.0 °F

(2) Subcooling: +/− 2.0 °F

(3) High side pressure or corresponding saturation or dew point temperature: +/− 4.0 psi or +/− 1.0 °F

(4) Low side pressure or corresponding saturation or dew point temperature: +/− 2.0 psi or +/− 0.8 °F

(5) High side temperature: +/− 2.0 °F

(6) Low side temperature: +/− 2.0 °F

(7) Approach temperature: +/− 1.0 °F

(8) Charge weight: +/− 2.0 ounce

2.2.5.5 Special Charging Instructions

a. Cooling and Heating Heat Pumps

If, using the initial charge set in the A or A_2 test, the conditions are not within the range specified in manufacturer's installation instructions for the H1 or $H1_2$ test, make as small as possible an adjustment to obtain conditions for this test in the specified range. After this adjustment, recheck conditions in the A or A_2 test to confirm that they are still within the specified range for the A or A_2 test.

b. Single-Package Systems

Unless otherwise directed by the manufacturer's installation instructions, install one or more refrigerant line pressure gauges during the setup of the unit, located depending on the parameters used to verify or set charge, as described:

(1) Install a pressure gauge at the location of the service valve on the liquid line if charging is on the basis of subcooling, or high side pressure or corresponding saturation or dew point temperature;

(2) Install a pressure gauge at the location of the service valve on the suction line if charging is on the basis of superheat, or low side pressure or corresponding saturation or dew point temperature.

Use methods for installing pressure gauge(s) at the required location(s) as indicated in manufacturer's instructions if specified.

2.2.5.6 Near-Azeotropic and Zeotropic Refrigerants

Perform charging of near-azeotropic and zeotropic refrigerants only with refrigerant in the liquid state.

2.2.5.7 Adjustment of Charge Between Tests

After charging the system as described in this test procedure, use the set refrigerant charge for all tests used to determine performance. Do not adjust the refrigerant charge at any point during testing. If measurements indicate that refrigerant charge has leaked during the test, repair the refrigerant leak, repeat any necessary set-up steps, and repeat all tests.

2.3 Indoor Air Volume Rates

If a unit's controls allow for overspeeding the indoor blower (usually on a temporary basis), take the necessary steps to prevent overspeeding during all tests.

2.3.1 Cooling Tests

a. Set indoor blower airflow-control settings (*e.g.,* fan motor pin settings, fan motor speed) according to the requirements that are specified in section 3.1.4 of this appendix.

b. Express the Cooling full-load air volume rate, the Cooling Minimum Air Volume Rate, and the Cooling Intermediate Air Volume Rate in terms of standard air.

2.3.2 Heating Tests

a. Set indoor blower airflow-control settings (*e.g.,* fan motor pin settings, fan motor speed) according to the requirements that are specified in section 3.1.4 of this appendix.

b. Express the heating full-load air volume rate, the heating minimum air volume rate, the heating intermediate air volume rate, and the heating nominal air volume rate in terms of standard air.

2.4 Indoor Coil Inlet and Outlet Duct Connections

Insulate and/or construct the outlet plenum as described in section 2.4.1 of this appendix and, if installed, the inlet plenum described in section 2.4.2 of this appendix with thermal insulation having a nominal overall resistance (R-value) of at least 19 hr • ft^2 • °F/Btu.

2.4.1 Outlet Plenum for the Indoor Unit

a. Attach a plenum to the outlet of the indoor coil. (Note: For some packaged systems, the indoor coil may be located in the outdoor test room.)

b. For systems having multiple indoor coils, or multiple indoor blowers within a single indoor section, attach a plenum to each indoor coil or indoor blower outlet. In order to reduce the number of required airflow measurement apparati (section 2.6 of this appendix), each such apparatus may serve multiple outlet plenums connected to a single common duct leading to the apparatus. More than one indoor test room may be used, which may use one or more common ducts leading to one or more airflow measurement apparati within each test room that contains multiple indoor coils. At the plane where each plenum enters a common duct, install an adjustable airflow damper and use it to equalize the static pressure in each plenum. Each outlet air temperature grid (section 2.5.4 of this appendix) and airflow measuring apparatus are located downstream of the inlet(s) to the common duct. For multiple-circuit (or multi-circuit) systems for which each indoor coil outlet is measured separately and its outlet plenum is not connected to a common duct connecting multiple outlet plenums, the outlet air temperature grid and airflow measuring apparatus must be installed at each outlet plenum.

c. For small-duct, high-velocity systems, install an outlet plenum that has a diameter that is equal to or less than the value listed in Table 2. The limit depends only on the Cooling full-load air volume rate (see section 3.1.4.1.1 of this appendix) and is effective regardless of the flange dimensions on the outlet of the unit (or an air supply plenum adapter accessory, if installed in accordance with the manufacturer's installation instructions).

d. Add a static pressure tap to each face of the (each) outlet plenum, if rectangular, or at four evenly distributed locations along the circumference of an oval or round plenum. Create a manifold that connects the four static pressure taps. Figure 9 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3) shows allowed options for the manifold configuration. The cross-sectional dimensions of plenum shall be equal to the dimensions of the indoor unit outlet. See Figures 7a, 7b, and 7c of ANSI/ASHRAE 37–2009 for the minimum length of the (each) outlet plenum and the locations for adding the static pressure taps for ducted blower coil indoor units and single-package systems. See Figure 8 of ANSI/ASHRAE 37–2009 for coil-only indoor units.

TABLE 2—SIZE OF OUTLET PLENUM FOR SMALL-DUCT HIGH-VELOCITY INDOOR UNITS

Cooling full-load air volume rate (scfm)	Maximum diameter* of outlet plenum (inches)
≤500	6
501 to 700	7
701 to 900	8
901 to 1100	9
1101 to 1400	10
1401 to 1750	11

* If the outlet plenum is rectangular, calculate its equivalent diameter using (4*A/P,*) where *A* is the cross-sectional area and P is the perimeter of the rectangular plenum, and compare it to the listed maximum diameter.

2.4.2 Inlet Plenum for the Indoor Unit

Install an inlet plenum when testing a coil-only indoor unit, a ducted blower coil indoor unit, or a single-package system. See Figures 7b and 7c of ANSI/ASHRAE 37–2009 for cross-sectional dimensions, the minimum length of the inlet plenum, and the locations of the static-pressure taps for ducted blower coil indoor units and single-package systems. See Figure 8 of ANSI/ASHRAE 37–2009 for coil-only indoor units. The inlet plenum duct size shall equal the size of the inlet opening of the air-handling (blower coil) unit or furnace. For a ducted blower coil indoor unit the set up may omit the inlet plenum if an inlet airflow prevention device is installed with a straight internally unobstructed duct on its outlet end with a minimum length equal to 1.5 times the square root of the cross-sectional area of the indoor unit inlet. See section 2.5.1.2 of this appendix for requirements for the locations of static pressure taps built into the inlet airflow prevention device. For all of these arrangements, make a manifold that connects the four static-pressure taps using one of the three configurations specified in section 2.4.1.d of this appendix. Never use an inlet plenum when testing non-ducted indoor units.

2.5 Indoor Coil Air Property Measurements and Airflow Prevention Devices

Follow instructions for indoor coil air property measurements as described in section 2.14 of this appendix, unless otherwise instructed in this section.

a. Measure the dry-bulb temperature and water vapor content of the air entering and

leaving the indoor coil. If needed, use an air sampling device to divert air to a sensor(s) that measures the water vapor content of the air. See section 5.3 of ANSI/ASHRAE 41.1–2013 (incorporated by reference, see § 430.3) for guidance on constructing an air sampling device. No part of the air sampling device or the tubing transferring the sampled air to the sensor shall be within two inches of the test chamber floor, and the transfer tubing shall be insulated. The sampling device may also be used for measurement of dry bulb temperature by transferring the sampled air to a remotely located sensor(s). The air sampling device and the remotely located temperature sensor(s) may be used to determine the entering air dry bulb temperature during any test. The air sampling device and the remotely located sensor(s) may be used to determine the leaving air dry bulb temperature for all tests except:

(1) Cyclic tests; and

(2) Frost accumulation tests.

b. Install grids of temperature sensors to measure dry bulb temperatures of both the entering and leaving airstreams of the indoor unit. These grids of dry bulb temperature sensors may be used to measure average dry bulb temperature entering and leaving the indoor unit in all cases (as an alternative to the dry bulb sensor measuring the sampled air). The leaving airstream grid is required for measurement of average dry bulb temperature leaving the indoor unit for the two special cases noted above. The grids are also required to measure the air temperature distribution of the entering and leaving airstreams as described in sections 3.1.8 and 3.1.9 of this appendix. Two such grids may applied as a thermopile, to directly obtain the average temperature difference rather than directly measuring both entering and leaving average temperatures.

c. Use of airflow prevention devices. Use an inlet and outlet air damper box, or use an inlet upturned duct and an outlet air damper box when conducting one or both of the cyclic tests listed in sections 3.2 and 3.6 of this appendix on ducted systems. If not conducting any cyclic tests, an outlet air damper box is required when testing ducted and non-ducted heat pumps that cycle off the indoor blower during defrost cycles and there is no other means for preventing natural or forced convection through the indoor unit when the indoor blower is off. Never use an inlet damper box or an inlet upturned duct when testing non-ducted indoor units. An inlet upturned duct is a length of ductwork installed upstream from the inlet such that the indoor duct inlet opening, facing upwards, is sufficiently high to prevent natural convection transfer out of the duct. If an inlet upturned duct is used, install a dry bulb temperature sensor near the inlet opening of the indoor duct at a centerline location not higher than the lowest elevation of the duct edges at the inlet, and ensure that any pair of 5-minute averages of the dry bulb temperature at this location, measured at least every minute during the compressor OFF period of the cyclic test, do not differ by more than 1.0 °F.

2.5.1 Test Set-Up on the Inlet Side of the Indoor Coil: For Cases Where the Inlet Airflow Prevention Device Is Installed

a. Install an airflow prevention device as specified in section 2.5.1.1 or 2.5.1.2 of this appendix, whichever applies.

b. For an inlet damper box, locate the grid of entering air dry-bulb temperature sensors, if used, and the air sampling device, or the sensor used to measure the water vapor content of the inlet air, at a location immediately upstream of the damper box inlet. For an inlet upturned duct, locate the grid of entering air dry-bulb temperature sensors, if used, and the air sampling device, or the sensor used to measure the water vapor content of the inlet air, at a location at least one foot downstream from the beginning of the insulated portion of the duct but before the static pressure measurement.

2.5.1.1 If the Section 2.4.2 Inlet Plenum Is Installed

Construct the airflow prevention device having a cross-sectional flow area equal to or greater than the flow area of the inlet plenum. Install the airflow prevention device upstream of the inlet plenum and construct ductwork connecting it to the inlet plenum. If needed, use an adaptor plate or a transition duct section to connect the airflow prevention device with the inlet plenum. Insulate the ductwork and inlet plenum with thermal insulation that has a nominal overall resistance (R-value) of at least 19 hr • ft^2 • °F/Btu.

2.5.1.2 If the Section 2.4.2 Inlet Plenum Is Not Installed

Construct the airflow prevention device having a cross-sectional flow area equal to or greater than the flow area of the air inlet of the indoor unit. Install the airflow prevention device immediately upstream of the inlet of the indoor unit. If needed, use an adaptor plate or a short transition duct section to connect the airflow prevention device with the unit's air inlet. Add static pressure taps at the center of each face of a rectangular airflow prevention device, or at four evenly distributed locations along the circumference of an oval or round airflow prevention device. Locate the pressure taps at a distance from the indoor unit inlet equal to 0.5 times the square root of the cross sectional area of the indoor unit inlet. This location must be between the damper and the inlet of the indoor unit, if a damper is used. Make a manifold that connects the four static pressure taps using one of the configurations shown in Figure 9 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3). Insulate the ductwork with thermal insulation that has a nominal overall resistance (R-value) of at least 19 hr • ft^2 • °F/Btu.

2.5.2 Test Set-Up on the Inlet Side of the Indoor Unit: For Cases Where No Airflow Prevention Device Is Installed

If using the section 2.4.2 inlet plenum and a grid of dry bulb temperature sensors, mount the grid at a location upstream of the static pressure taps described in section 2.4.2 of this appendix, preferably at the entrance plane of the inlet plenum. If the section 2.4.2 inlet plenum is not used (*i.e.* for non-ducted units) locate a grid approximately 6 inches upstream of the indoor unit inlet. In the case of a system having multiple non-ducted indoor units, do this for each indoor unit. Position an air sampling device, or the sensor used to measure the water vapor content of the inlet air, immediately upstream of the (each) entering air dry-bulb temperature sensor grid. If a grid of sensors is not used, position the entering air sampling device (or the sensor used to measure the water vapor content of the inlet air) as if the grid were present.

2.5.3 Indoor Coil Static Pressure Difference Measurement

Fabricate pressure taps meeting all requirements described in section 6.5.2 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3) and illustrated in Figure 2A of AMCA 210–2007 (incorporated by reference, see § 430.3), however, if adhering strictly to the description in section 6.5.2 of ANSI/ASHRAE 37–2009, the minimum pressure tap length of 2.5 times the inner diameter of Figure 2A of AMCA 210–2007 is waived. Use a differential pressure measuring instrument that is accurate to within ±0.01 inches of water and has a resolution of at least 0.01 inches of water to measure the static pressure difference between the indoor coil air inlet and outlet. Connect one side of the differential pressure instrument to the manifolded pressure taps installed in the outlet plenum. Connect the other side of the instrument to the manifolded pressure taps located in either the inlet plenum or incorporated within the airflow prevention device. For non-ducted indoor units that are tested with multiple outlet plenums, measure the static pressure within each outlet plenum relative to the surrounding atmosphere.

2.5.4 Test Set-Up on the Outlet Side of the Indoor Coil

a. Install an interconnecting duct between the outlet plenum described in section 2.4.1 of this appendix and the airflow measuring apparatus described below in section 2.6 of this appendix. The cross-sectional flow area of the interconnecting duct must be equal to or greater than the flow area of the outlet plenum or the common duct used when testing non-ducted units having multiple indoor coils. If needed, use adaptor plates or transition duct sections to allow the connections. To minimize leakage, tape joints within the interconnecting duct (and the outlet plenum). Construct or insulate the entire flow section with thermal insulation having a nominal overall resistance (R-value) of at least 19 hr • ft^2 • °F/Btu.

b. Install a grid(s) of dry-bulb temperature sensors inside the interconnecting duct. Also, install an air sampling device, or the sensor(s) used to measure the water vapor content of the outlet air, inside the interconnecting duct. Locate the dry-bulb temperature grid(s) upstream of the air sampling device (or the in-duct sensor(s) used to measure the water vapor content of the outlet air). Turn off the sampler fan motor during the cyclic tests. Air leaving an indoor unit that is sampled by an air sampling device for remote water-vapor-content measurement must be returned to the interconnecting duct at a location:

(1) Downstream of the air sampling device;

(2) On the same side of the outlet air damper as the air sampling device; and

(3) Upstream of the section 2.6 airflow measuring apparatus.

2.5.4.1 Outlet Air Damper Box Placement and Requirements

If using an outlet air damper box (see section 2.5 of this appendix), the leakage rate from the combination of the outlet plenum, the closed damper, and the duct section that connects these two components must not exceed 20 cubic feet per minute when a negative pressure of 1 inch of water column is maintained at the plenum's inlet.

2.5.4.2 Procedures To Minimize Temperature Maldistribution

Use these procedures if necessary to correct temperature maldistributions. Install a mixing device(s) upstream of the outlet air, dry-bulb temperature grid (but downstream of the outlet plenum static pressure taps). Use a perforated screen located between the mixing device and the dry-bulb temperature grid, with a maximum open area of 40 percent. One or both items should help to meet the maximum outlet air temperature distribution specified in section 3.1.8 of this appendix. Mixing devices are described in sections 5.3.2 and 5.3.3 of ANSI/ASHRAE 41.1–2013 and section 5.2.2 of ASHRAE 41.2–1987 (RA 1992) (incorporated by reference, see § 430.3).

2.5.4.3 Minimizing Air Leakage

For small-duct, high-velocity systems, install an air damper near the end of the interconnecting duct, just prior to the transition to the airflow measuring apparatus of section 2.6 of this appendix. To minimize air leakage, adjust this damper such that the pressure in the receiving chamber of the airflow measuring apparatus is no more than 0.5 inch of water higher than the surrounding test room ambient. If applicable, in lieu of installing a separate damper, use the outlet air damper box of sections 2.5 and 2.5.4.1 of this appendix if it allows variable positioning. Also apply these steps to any conventional indoor blower unit that creates a static pressure within the receiving chamber of the airflow measuring apparatus that exceeds the test room ambient pressure by more than 0.5 inches of water column.

2.5.5 Dry Bulb Temperature Measurement

a. Measure dry bulb temperatures as specified in sections 4, 5.3, 6, and 7 of ANSI/ASHRAE 41.1–2013 (incorporated by reference, see § 430.3).

b. Distribute the sensors of a dry-bulb temperature grid over the entire flow area. The required minimum is 9 sensors per grid.

2.5.6 Water Vapor Content Measurement

Determine water vapor content by measuring dry-bulb temperature combined with the air wet-bulb temperature, dew point temperature, or relative humidity. If used, construct and apply wet-bulb temperature sensors as specified in sections 4, 5, 6, 7.2, 7.3, and 7.4 of ASHRAE 41.6–2014 (incorporated by reference, see § 430.3). The temperature sensor (wick removed) must be accurate to within ±0.2 °F. If used, apply dew point hygrometers as specified in sections 4, 5, 6, 7.1, and 7.4 of ASHRAE 41.6–2014 (incorporated by reference, see § 430.3). The dew point hygrometers must be accurate to within ±0.4 °F when operated at conditions that result in the evaluation of dew points above 35 °F. If used, a relative humidity (RH) meter must be accurate to within ±0.7% RH. Other means to determine the psychrometric state of air may be used as long as the measurement accuracy is equivalent to or better than the accuracy achieved from using a wet-bulb temperature sensor that meets the above specifications.

2.5.7 Air Damper Box Performance Requirements

If used (see section 2.5 of this appendix), the air damper box(es) must be capable of being completely opened or completely closed within 10 seconds for each action.

2.6 Airflow Measuring Apparatus

a. Fabricate and operate an airflow measuring apparatus as specified in section 6.2 and 6.3 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3). Place the static pressure taps and position the diffusion baffle (settling means) relative to the chamber inlet as indicated in Figure 12 of AMCA 210–2007 and/or Figure 14 of ASHRAE 41.2–1987 (RA 1992) (incorporated by reference, see § 430.3). When measuring the static pressure difference across nozzles and/or velocity pressure at nozzle throats using electronic pressure transducers and a data acquisition system, if high frequency fluctuations cause measurement variations to exceed the test tolerance limits specified in section 9.2 and Table 2 of ANSI/ASHRAE 37–2009, dampen the measurement system such that the time constant associated with response to a step change in measurement (time for the response to change 63% of the way from the initial output to the final output) is no longer than five seconds.

b. Connect the airflow measuring apparatus to the interconnecting duct section described in section 2.5.4 of this appendix. See sections 6.1.1, 6.1.2, and 6.1.4, and Figures 1, 2, and 4 of ANSI/ASHRAE 37–2009; and Figures D1, D2, and D4 of AHRI 210/240–2008 (incorporated by reference, see § 430.3) for illustrative examples of how the test apparatus may be applied within a complete laboratory set-up. Instead of following one of these examples, an alternative set-up may be used to handle the air leaving the airflow measuring apparatus and to supply properly conditioned air to the test unit's inlet. The alternative set-up, however, must not interfere with the prescribed means for measuring airflow rate, inlet and outlet air temperatures, inlet and outlet water vapor contents, and external static pressures, nor create abnormal conditions surrounding the test unit. (Note: Do not use an enclosure as described in section 6.1.3 of ANSI/ASHRAE 37–2009 when testing triple-split units.)

2.7 Electrical Voltage Supply

Perform all tests at the voltage specified in section 6.1.3.2 of AHRI 210/240–2008 (incorporated by reference, see § 430.3) for ''Standard Rating Tests.'' If either the indoor or the outdoor unit has a 208V or 200V nameplate voltage and the other unit has a 230V nameplate rating, select the voltage supply on the outdoor unit for testing. Otherwise, supply each unit with its own nameplate voltage. Measure the supply voltage at the terminals on the test unit using a volt meter that provides a reading that is accurate to within ±1.0 percent of the measured quantity.

2.8 Electrical Power and Energy Measurements

a. Use an integrating power (watt-hour) measuring system to determine the electrical energy or average electrical power supplied to all components of the air conditioner or heat pump (including auxiliary components such as controls, transformers, crankcase heater, integral condensate pump on non-ducted indoor units, etc.). The watt-hour measuring system must give readings that are accurate to within ±0.5 percent. For cyclic tests, this accuracy is required during both the ON and OFF cycles. Use either two different scales on the same watt-hour meter or two separate watt-hour meters. Activate the scale or meter having the lower power rating within 15 seconds after beginning an OFF cycle. Activate the scale or meter having the higher power rating within 15 seconds prior to beginning an ON cycle. For ducted blower coil systems, the ON cycle lasts from compressor ON to indoor blower OFF. For ducted coil-only systems, the ON cycle lasts from compressor ON to compressor OFF. For non-ducted units, the ON cycle lasts from indoor blower ON to indoor blower OFF. When testing air conditioners and heat pumps having a variable-speed compressor, avoid using an induction watt/watt-hour meter.

b. When performing section 3.5 and/or 3.8 cyclic tests on non-ducted units, provide instrumentation to determine the average electrical power consumption of the indoor blower motor to within ±1.0 percent. If required according to sections 3.3, 3.4, 3.7, 3.9.1 of this appendix, and/or 3.10 of this appendix, this same instrumentation requirement (to determine the average electrical power consumption of the indoor blower motor to within ±1.0 percent) applies when testing air conditioners and heat pumps having a variable-speed constant-air-volume-rate indoor blower or a variable-speed, variable-air-volume-rate indoor blower.

2.9 Time Measurements

Make elapsed time measurements using an instrument that yields readings accurate to within ±0.2 percent.

2.10 Test Apparatus for the Secondary Space Conditioning Capacity Measurement

For all tests, use the indoor air enthalpy method to measure the unit's capacity. This method uses the test set-up specified in sections 2.4 to 2.6 of this appendix. In addition, for all steady-state tests, conduct a second, independent measurement of capacity as described in section 3.1.1 of this appendix. For split systems, use one of the following secondary measurement methods: Outdoor air enthalpy method, compressor calibration method, or refrigerant enthalpy method. For single-package units, use either the outdoor air enthalpy method or the compressor calibration method as the secondary measurement.

2.10.1 Outdoor Air Enthalpy Method

a. To make a secondary measurement of indoor space conditioning capacity using the outdoor air enthalpy method, do the following:

(1) Measure the electrical power consumption of the test unit;

(2) Measure the air-side capacity at the outdoor coil; and

(3) Apply a heat balance on the refrigerant cycle.

b. The test apparatus required for the outdoor air enthalpy method is a subset of the apparatus used for the indoor air enthalpy method. Required apparatus includes the following:

(1) On the outlet side, an outlet plenum containing static pressure taps (sections 2.4, 2.4.1, and 2.5.3 of this appendix),

(2) An airflow measuring apparatus (section 2.6 of this appendix),

(3) A duct section that connects these two components and itself contains the instrumentation for measuring the dry-bulb temperature and water vapor content of the air leaving the outdoor coil (sections 2.5.4, 2.5.5, and 2.5.6 of this appendix), and

(4) On the inlet side, a sampling device and temperature grid (section 2.11.b of this appendix).

c. During the preliminary tests described in sections 3.11.1 and 3.11.1.1 of this appendix, measure the evaporator and condenser temperatures or pressures. On both the outdoor coil and the indoor coil, solder a thermocouple onto a return bend located at or near the midpoint of each coil or at points not affected by vapor superheat or liquid subcooling. Alternatively, if the test unit is not sensitive to the refrigerant charge, install pressure gages to the access valves or to ports created from tapping into the suction and discharge lines according to sections 7.4.2 and 8.2.5 of ASHRAE 37–2009. Use this alternative approach when testing a unit charged with a zeotropic refrigerant having a temperature glide in excess of 1 °F at the specified test conditions.

2.10.2 Compressor Calibration Method

Measure refrigerant pressures and temperatures to determine the evaporator superheat and the enthalpy of the refrigerant that enters and exits the indoor coil. Determine refrigerant flow rate or, when the superheat of the refrigerant leaving the evaporator is less than 5 °F, total capacity from separate calibration tests conducted under identical operating conditions. When using this method, install instrumentation and measure refrigerant properties according to section 7.4.2 and 8.2.5 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3). If removing the refrigerant before applying refrigerant lines and subsequently recharging, use the steps in 7.4.2 of ANSI/ASHRAE 37–2009 in addition to the methods of section 2.2.5 of this appendix to confirm the refrigerant charge. Use refrigerant temperature and pressure measuring instruments that meet the specifications given in sections 5.1.1 and 5.2 of ANSI/ASHRAE 37–2009.

2.10.3 Refrigerant Enthalpy Method

For this method, calculate space conditioning capacity by determining the refrigerant enthalpy change for the indoor coil and directly measuring the refrigerant flow rate. Use section 7.5.2 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3) for the requirements for this method, including the additional instrumentation requirements, and information on placing the flow meter and a sight glass. Use refrigerant temperature, pressure, and flow measuring instruments that meet the specifications given in sections 5.1.1, 5.2, and 5.5.1 of ANSI/ASHRAE 37–2009. Refrigerant flow measurement device(s), if used, must be either elevated at least two feet from the test chamber floor or placed upon insulating material having a total thermal resistance of at least R–12 and extending at least one foot laterally beyond each side of the device(s)' exposed surfaces.

2.11 Measurement of Test Room Ambient Conditions

Follow instructions for setting up air sampling device and aspirating psychrometer as described in section 2.14 of this appendix, unless otherwise instructed in this section.

a. If using a test set-up where air is ducted directly from the conditioning apparatus to the indoor coil inlet (see Figure 2, Loop Air-Enthalpy Test Method Arrangement, of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3)), add instrumentation to permit measurement of the indoor test room dry-bulb temperature.

b. On the outdoor side, use one of the following two approaches, except that approach (1) is required for all evaporatively-cooled units and units that transfer condensate to the outdoor unit for evaporation using condenser heat.

(1) Use sampling tree air collection on all air-inlet surfaces of the outdoor unit.

(2) Use sampling tree air collection on one or more faces of the outdoor unit and demonstrate air temperature uniformity as follows. Install a grid of evenly-distributed thermocouples on each air-permitting face on the inlet of the outdoor unit. Install the thermocouples on the air sampling device, locate them individually or attach them to a wire structure. If not installed on the air sampling device, install the thermocouple grid 6 to 24 inches from the unit. The thermocouples shall be evenly spaced across the coil inlet surface and be installed to avoid sampling of discharge air or blockage of air recirculation. The grid of thermocouples must provide at least 16 measuring points per face or one measurement per square foot of inlet face area, whichever is less. This grid must be constructed and used as per section 5.3 of ANSI/ASHRAE 41.1–2013 (incorporated by reference, see § 430.3). The maximum difference between the readings of any two pairs of these individual thermocouples located at any of the faces of the inlet of the outdoor unit, must not exceed 2.0 °F, otherwise approach (1) must be used.

The air sampling devices shall be located at the geometric center of each side; the branches may be oriented either parallel or perpendicular to the longer edges of the air inlet area. The air sampling devices in the outdoor air inlet location shall be sized such that they cover at least 75% of the face area of the side of the coil that they are measuring.

Air distribution at the test facility point of supply to the unit shall be reviewed and may require remediation prior to the beginning of testing. Mixing fans can be used to ensure adequate air distribution in the test room. If used, mixing fans shall be oriented such that they are pointed away from the air intake so that the mixing fan exhaust does not affect the outdoor coil air volume rate. Particular attention should be given to prevent the mixing fans from affecting (enhancing or limiting) recirculation of condenser fan exhaust air back through the unit. Any fan used to enhance test room air mixing shall not cause air velocities in the vicinity of the test unit to exceed 500 feet per minute.

The air sampling device may be larger than the face area of the side being measured, however care shall be taken to prevent discharge air from being sampled. If an air sampling device dimension extends beyond the inlet area of the unit, holes shall be blocked in the air sampling device to prevent sampling of discharge air. Holes can be blocked to reduce the region of coverage of the intake holes both in the direction of the trunk axis or perpendicular to the trunk axis. For intake hole region reduction in the direction of the trunk axis, block holes of one or more adjacent pairs of branches (the branches of a pair connect opposite each other at the same trunk location) at either the outlet end or the closed end of the trunk. For intake hole region reduction perpendicular to the trunk axis, block off the same number of holes on each branch on both sides of the trunk.

A maximum of four (4) air sampling devices shall be connected to each aspirating psychrometer. In order to proportionately divide the flow stream for multiple air sampling devices for a given aspirating psychrometer, the tubing or conduit conveying sampled air to the psychrometer shall be of equivalent lengths for each air sampling device. Preferentially, the air sampling device should be hard connected to the aspirating psychrometer, but if space constraints do not allow this, the assembly shall have a means of allowing a flexible tube to connect the air sampling device to the aspirating psychrometer. The tubing or conduit shall be insulated and routed to prevent heat transfer to the air stream. Any surface of the air conveying tubing in contact with surrounding air at a different temperature than the sampled air shall be insulated with thermal insulation with a nominal thermal resistance (R-value) of at least 19 $hr \cdot ft^2 \cdot$ °F/Btu. Alternatively the conduit may have lower thermal resistance if additional sensor(s) are used to measure dry bulb temperature at the outlet of each air sampling device. No part of the air sampling device or the tubing conducting the sampled air to the sensors shall be within two inches of the test chamber floor.

Pairs of measurements (*e.g.*, dry bulb temperature and wet bulb temperature) used to determine water vapor content of sampled air shall be measured in the same location.

2.12 Measurement of Indoor Blower Speed

When required, measure fan speed using a revolution counter, tachometer, or stroboscope that gives readings accurate to within ±1.0 percent.

2.13 Measurement of Barometric Pressure

Determine the average barometric pressure during each test. Use an instrument that meets the requirements specified in section 5.2 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3).

2.14 Air Sampling Device and Aspirating Psychrometer Requirements

Air temperature measurements shall be made in accordance with ANSI/ASHRAE 41.1–2013, unless otherwise instructed in this section.

2.14.1 Air Sampling Device Requirements

The air sampling device is intended to draw in a sample of the air at the critical locations of a unit under test. It shall be constructed of stainless steel, plastic or other suitable, durable materials. It shall have a main flow trunk tube with a series of branch tubes connected to the trunk tube. Holes shall be on the side of the sampler facing the upstream direction of the air source. Other sizes and rectangular shapes can be used, and shall be scaled accordingly with the following guidelines:

(1) Minimum hole density of 6 holes per square foot of area to be sampled

(2) Sampler branch tube pitch (spacing) of 6 ± 3 in

(3) Manifold trunk to branch diameter ratio having a minimum of 3:1 ratio

(4) Hole pitch (spacing) shall be equally distributed over the branch (1/2 pitch from the closed end to the nearest hole)

(5) Maximum individual hole to branch diameter ratio of 1:2 (1:3 preferred)

The minimum average velocity through the air sampling device holes shall be 2.5 ft/s as determined by evaluating the sum of the open area of the holes as compared to the flow area in the aspirating psychrometer.

2.14.2 Aspirating Psychrometer

The psychrometer consists of a flow section and a fan to draw air through the flow section and measures an average value of the sampled air stream. At a minimum, the flow section shall have a means for measuring the dry bulb temperature (typically, a resistance temperature device (RTD) and a means for measuring the humidity (RTD with wetted sock, chilled mirror hygrometer, or relative humidity sensor). The aspirating psychrometer shall include a fan that either can be adjusted manually or automatically to maintain required velocity across the sensors.

The psychrometer shall be made from suitable material which may be plastic (such as polycarbonate), aluminum or other metallic materials. All psychrometers for a given system being tested, shall be constructed of the same material. Psychrometers shall be designed such that radiant heat from the motor (for driving the fan that draws sampled air through the psychrometer) does not affect sensor measurements. For aspirating psychrometers, velocity across the wet bulb sensor shall be 1000 ± 200 ft/min. For all other psychrometers, velocity shall be as specified by the sensor manufacturer.

3. Testing Procedures

3.1 General Requirements

If, during the testing process, an equipment set-up adjustment is made that would have altered the performance of the unit during any already completed test, then repeat all tests affected by the adjustment. For cyclic tests, instead of maintaining an air volume rate, for each airflow nozzle, maintain the static pressure difference or velocity pressure during an ON period at the same pressure difference or velocity pressure as measured during the steady-state test conducted at the same test conditions.

Use the testing procedures in this section to collect the data used for calculating:

(1) Performance metrics for central air conditioners and heat pumps during the cooling season;

(2) Performance metrics for heat pumps during the heating season; and

(3) Power consumption metric(s) for central air conditioners and heat pumps during the off mode season(s).

3.1.1 Primary and Secondary Test Methods

For all tests, use the indoor air enthalpy method test apparatus to determine the unit's space conditioning capacity. The procedure and data collected, however, differ slightly depending upon whether the test is a steady-state test, a cyclic test, or a frost accumulation test. The following sections described these differences. For all steady-state tests (*i.e.,* the A, A_2, A_1, B, B_2, B_1, C, C_1, EV, F_1, G_1, $H0_1$, H_1, $H1_2$, $H1_1$, HI_N, H_3, $H3_2$, and $H3_1$ Tests), in addition, use one of the acceptable secondary methods specified in section 2.10 of this appendix to determine indoor space conditioning capacity. Calculate this secondary check of capacity according to section 3.11 of this appendix. The two capacity measurements must agree to within 6 percent to constitute a valid test. For this capacity comparison, use the indoor air enthalpy method capacity that is calculated in section 7.3 of ANSI/ASHRAE 37–2009 (and, if testing a coil-only system, compare capacities before before making the after-test fan heat adjustments described in section 3.3, 3.4, 3.7, and 3.10 of this appendix). However, include the appropriate section 3.3 to 3.5 and 3.7 to 3.10 fan heat adjustments within the indoor air enthalpy method capacities used for the section 4 seasonal calculations of this appendix.

3.1.2 Manufacturer-Provided Equipment Overrides

Where needed, the manufacturer must provide a means for overriding the controls of the test unit so that the compressor(s) operates at the specified speed or capacity and the indoor blower operates at the specified speed or delivers the specified air volume rate.

3.1.3 Airflow Through the Outdoor Coil

For all tests, meet the requirements given in section 6.1.3.4 of AHRI 210/240–2008 (incorporated by reference, see § 430.3) when obtaining the airflow through the outdoor coil.

3.1.3.1 Double-Ducted

For products intended to be installed with the outdoor airflow ducted, the unit shall be installed with outdoor coil ductwork installed per manufacturer installation instructions and shall operate between 0.10 and 0.15 in H_2O external static pressure. External static pressure measurements shall be made in accordance with ANSI/ASHRAE 37–2009 section 6.4 and 6.5.

3.1.4 Airflow Through the Indoor Coil

Airflow setting(s) shall be determined before testing begins. Unless otherwise specified within this or its subsections, no changes shall be made to the airflow setting(s) after initiation of testing.

3.1.4.1 Cooling Full-Load Air Volume Rate

3.1.4.1.1. Cooling Full-Load Air Volume Rate for Ducted Units

Identify the certified cooling full-load air volume rate and certified instructions for setting fan speed or controls. If there is no certified Cooling full-load air volume rate, use a value equal to the certified cooling capacity of the unit times 400 scfm per 12,000 Btu/h. If there are no instructions for setting fan speed or controls, use the as-shipped settings. Use the following procedure to confirm and, if necessary, adjust the Cooling full-load air volume rate and the fan speed or control settings to meet each test procedure requirement:

a. For all ducted blower coil systems, except those having a constant-air-volume-rate indoor blower:

Step (1) Operate the unit under conditions specified for the A (for single-stage units) or A_2 test using the certified fan speed or controls settings, and adjust the exhaust fan of the airflow measuring apparatus to achieve the certified Cooling full-load air volume rate;

Step (2) Measure the external static pressure;

Step (3) If this external static pressure is equal to or greater than the applicable minimum external static pressure cited in Table 3, the pressure requirement is satisfied; proceed to step 7 of this section. If this external static pressure is not equal to or greater than the applicable minimum external static pressure cited in Table 3, proceed to step 4 of this section;

Step (4) Increase the external static pressure by adjusting the exhaust fan of the airflow measuring apparatus until either

(i) The applicable Table 3 minimum is equaled or

(ii) The measured air volume rate equals 90 percent or less of the Cooling full-load air volume rate, whichever occurs first;

Step (5) If the conditions of step 4 (i) of this section occur first, the pressure requirement is satisfied; proceed to step 7 of this section. If the conditions of step 4 (ii) of this section occur first, proceed to step 6 of this section;

Step (6) Make an incremental change to the setup of the indoor blower (*e.g.,* next highest fan motor pin setting, next highest fan motor speed) and repeat the evaluation process beginning above, at step 1 of this section. If the indoor blower setup cannot be further changed, increase the external static pressure by adjusting the exhaust fan of the airflow measuring apparatus until the applicable Table 3 minimum is equaled; proceed to step 7 of this section;

Step (7) The airflow constraints have been satisfied. Use the measured air volume rate as the Cooling full-load air volume rate. Use the final fan speed or control settings for all tests that use the Cooling full-load air volume rate.

b. For ducted blower coil systems with a constant-air-volume-rate indoor blower. For all tests that specify the Cooling full-load air volume rate, obtain an external static pressure as close to (but not less than) the applicable Table 3 value that does not cause automatic shutdown of the indoor blower or air volume rate variation Q_{Var}, defined as follows, greater than 10 percent.

$$Q_{Var} = \left[\frac{Q_{max} - Q_{min}}{\left(\frac{Q_{max} + Q_{min}}{2}\right)}\right] * 100$$

where:

Q_{max} = maximum measured airflow value
Q_{min} = minimum measured airflow value
Q_{Var} = airflow variance, percent

Additional test steps as described in section 3.3.(e) of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

c. For coil-only indoor units. For the A or A_2 Test, (exclusively), the pressure drop across the indoor coil assembly must not exceed 0.30 inches of water. If this pressure drop is exceeded, reduce the air volume rate until the measured pressure drop equals the specified maximum. Use this reduced air volume rate for all tests that require the Cooling full-load air volume rate.

TABLE 3—MINIMUM EXTERNAL STATIC PRESSURE FOR DUCTED BLOWER COIL SYSTEMS

Rated cooling [1] or heating [2] capacity (Btu/h)	Minimum external resistance [3] (inches of water)	
	Small-duct, high-velocity systems [4] [5]	All other systems
Up Thru 28,800	1.10	0.10
29,000 to 42,500	1.15	0.15
43,000 and Above	1.20	0.20

[1] For air conditioners and air-conditioning heat pumps, the value certified by the manufacturer for the unit's cooling capacity when operated at the *A* or A_2 Test conditions.
[2] For heating-only heat pumps, the value certified by the manufacturer for the unit's heating capacity when operated at the *H1* or $H1_2$ Test conditions.
[3] For ducted units tested without an air filter installed, increase the applicable tabular value by 0.08 inches of water.
[4] See section 1.2 of this appendix, Definitions, to determine if the equipment qualifies as a small-duct, high-velocity system.
[5] If a closed-loop, air-enthalpy test apparatus is used on the indoor side, limit the resistance to airflow on the inlet side of the blower coil indoor unit to a maximum value of 0.1 inch of water. Impose the balance of the airflow resistance on the outlet side of the indoor blower.

d. For ducted systems having multiple indoor blowers within a single indoor section, obtain the full-load air volume rate with all indoor blowers operating unless prevented by the controls of the unit. In such cases, turn on the maximum number of indoor blowers permitted by the unit's controls. Where more than one option exists for meeting this ''on'' indoor blower requirement, which indoor blower(s) are turned on must match that specified in the certification report. Conduct section 3.1.4.1.1 setup steps for each indoor blower separately. If two or more indoor blowers are connected to a common duct as per section 2.4.1 of this appendix, temporarily divert their air volume to the test room when confirming or adjusting the setup configuration of individual indoor blowers. The allocation of the system's full-load air volume rate assigned to each ''on'' indoor blower must match that specified by the manufacturer in the certification report.

3.1.4.1.2. Cooling Full-Load Air Volume Rate for Non-ducted Units

For non-ducted units, the Cooling full-load air volume rate is the air volume rate that results during each test when the unit is operated at an external static pressure of zero inches of water.

3.1.4.2 Cooling Minimum Air Volume Rate

Identify the certified cooling minimum air volume rate and certified instructions for setting fan speed or controls. If there is no certified cooling minimum air volume rate, use the final indoor blower control settings as determined when setting the cooling full-load air volume rate, and readjust the exhaust fan of the airflow measuring apparatus if necessary to reset to the cooling full load air volume obtained in section 3.1.4.1 of this appendix. Otherwise, calculate the target external static pressure and follow instructions a, b, c, d, or e below. The target external static pressure, ΔP_{st_i}, for any test ''i'' with a specified air volume rate not equal to the Cooling full-load air volume rate is determined as follows:

$$\Delta P_{st_i} = \Delta P_{st_full} \left[\frac{Q_i}{Q_{full}}\right]^2$$

where:

ΔP_{st_i} = target minimum external static pressure for test i;
ΔP_{st_full} = minimum external static pressure for test A or A_2 (Table 3);
Q_i = air volume rate for test i; and
Q_{full} = Cooling full-load air volume rate as measured after setting and/or adjustment as described in section 3.1.4.1.1 of this appendix.

a. For a ducted blower coil system without a constant-air-volume indoor blower, adjust for external static pressure as follows:

Step (1) Operate the unit under conditions specified for the B1 test using the certified fan speed or controls settings, and adjust the exhaust fan of the airflow measuring apparatus to achieve the certified cooling minimum air volume rate;

Step (2) Measure the external static pressure;

Step (3) If this pressure is equal to or greater than the minimum external static pressure computed above, the pressure requirement is satisfied; proceed to step 7 of this section. If this pressure is not equal to or greater than the minimum external static pressure computed above, proceed to step 4 of this section;

Step (4) Increase the external static pressure by adjusting the exhaust fan of the airflow measuring apparatus until either

(i) The pressure is equal to the minimum external static pressure computed above or

(ii) The measured air volume rate equals 90 percent or less of the cooling minimum air volume rate, whichever occurs first;

Step (5) If the conditions of step 4 (i) of this section occur first, the pressure requirement is satisfied; proceed to step 7 of this section. If the conditions of step 4 (ii) of this section occur first, proceed to step 6 of this section;

Step (6) Make an incremental change to the setup of the indoor blower (*e.g.,* next highest fan motor pin setting, next highest fan motor speed) and repeat the evaluation process beginning above, at step 1 of this section. If the indoor blower setup cannot be further changed, increase the external static pressure by adjusting the exhaust fan of the airflow measuring apparatus until it equals the minimum external static pressure computed above; proceed to step 7 of this section;

Step (7) The airflow constraints have been satisfied. Use the measured air volume rate as the cooling minimum air volume rate. Use the final fan speed or control settings for all tests that use the cooling minimum air volume rate.

b. For ducted units with constant-air-volume indoor blowers, conduct all tests that specify the cooling minimum air volume rate—(*i.e.,* the A_1, B_1, C_1, F_1, and G_1 Tests)—at an external static pressure that does not cause an automatic shutdown of the indoor blower or air volume rate variation Q_{Var}, defined in section 3.1.4.1.1.b of this appendix, greater than 10 percent, while being as close to, but not less than the target minimum external static pressure. Additional test steps as described in section 3.3(e) of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

c. For ducted two-capacity coil-only systems, the cooling minimum air volume rate is the higher of (1) the rate specified by the installation instructions included with the unit by the manufacturer or (2) 75 percent of the cooling full-load air volume rate. During the laboratory tests on a coil-only (fanless) system, obtain this cooling minimum air volume rate regardless of the pressure drop across the indoor coil assembly.

d. For non-ducted units, the cooling minimum air volume rate is the air volume rate that results during each test when the unit operates at an external static pressure of zero inches of water and at the indoor blower setting used at low compressor capacity (two-capacity system) or minimum compressor speed (variable-speed system). For units having a single-speed compressor and a variable-speed variable-air-volume-rate indoor blower, use the lowest fan setting allowed for cooling.

e. For ducted systems having multiple indoor blowers within a single indoor section, operate the indoor blowers such that the lowest air volume rate allowed by the unit's controls is obtained when operating the lone single-speed compressor or when operating at low compressor capacity while meeting the requirements of section 2.2.3.b of this appendix for the minimum number of blowers that must be turned off. Using the target external static pressure and the certified air volume rates, follow the procedures described in section 3.1.4.2.a of this appendix if the indoor blowers are not constant-air-volume indoor blowers or as described in section 3.1.4.2.b of this appendix if the indoor blowers are constant-air-volume indoor blowers. The sum of the individual ''on'' indoor blowers' air volume rates is the cooling minimum air volume rate for the system.

3.1.4.3 Cooling Intermediate Air Volume Rate

Identify the certified cooling intermediate air volume rate and certified instructions for setting fan speed or controls. If there is no certified cooling intermediate air volume rate, use the final indoor blower control settings as determined when setting the cooling full load air volume rate, and readjust the exhaust fan of the airflow measuring apparatus if necessary to reset to the cooling full load air volume obtained in section 3.1.4.1 of this appendix. Otherwise, calculate target minimum external static pressure as described in section 3.1.4.2 of this appendix, and set the air volume rate as follows.

a. For a ducted blower coil system without a constant-air-volume indoor blower, adjust for external static pressure as described in section 3.1.4.2.a of this appendix for cooling minimum air volume rate.

b. For a ducted blower coil system with a constant-air-volume indoor blower, conduct the E_V Test at an external static pressure that does not cause an automatic shutdown of the indoor blower or air volume rate variation Q_{Var}, defined in section 3.1.4.1.1.b of this appendix, greater than 10 percent, while being as close to, but not less than the target minimum external static pressure. Additional test steps as described in section 3.3(e) of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

c. For non-ducted units, the cooling intermediate air volume rate is the air volume rate that results when the unit operates at an external static pressure of zero inches of water and at the fan speed selected by the controls of the unit for the E_V Test conditions.

3.1.4.4 Heating Full-Load Air Volume Rate

3.1.4.4.1 Ducted Heat Pumps Where the Heating and Cooling Full-Load Air Volume Rates Are the Same

a. Use the Cooling full-load air volume rate as the heating full-load air volume rate for:

(1) Ducted blower coil system heat pumps that do not have a constant-air-volume indoor blower, and that operate at the same airflow-control setting during both the A (or A_2) and the H1 (or $H1_2$) Tests;

(2) Ducted blower coil system heat pumps with constant-air-flow indoor blowers that provide the same air flow for the A (or A_2) and the H1 (or $H1_2$) Tests; and

(3) Ducted heat pumps that are tested with a coil-only indoor unit (except two-capacity northern heat pumps that are tested only at low capacity cooling—see section 3.1.4.4.2 of this appendix).

b. For heat pumps that meet the above criteria ''1'' and ''3,'' no minimum requirements apply to the measured external or internal, respectively, static pressure. Use the final indoor blower control settings as determined when setting the Cooling full-load air volume rate, and readjust the exhaust fan of the airflow measuring apparatus if necessary to reset to the cooling full-load air volume obtained in section 3.1.4.1 of this appendix. For heat pumps that meet the above criterion ''2,'' test at an external static pressure that does not cause an automatic shutdown of the indoor blower or air volume rate variation Q_{Var}, defined in section 3.1.4.1.1.b of this appendix, greater than 10 percent, while being as close to, but not less than, the same Table 3 minimum external static pressure as was specified for the A (or A_2) cooling mode test. Additional test steps as described in section 3.9.1(c) of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

3.1.4.4.2 Ducted Heat Pumps Where the Heating and Cooling Full-Load Air Volume Rates Are Different Due to Changes in Indoor Blower Operation, *i.e.* Speed Adjustment by the System Controls

Identify the certified heating full-load air volume rate and certified instructions for setting fan speed or controls. If there is no certified heating full-load air volume rate, use the final indoor blower control settings as

determined when setting the cooling full-load air volume rate, and readjust the exhaust fan of the airflow measuring apparatus if necessary to reset to the cooling full load air volume obtained in section 3.1.4.1 of this appendix. Otherwise, calculate target minimum external static pressure as described in section 3.1.4.2 of this appendix and set the air volume rate as follows.

a. For ducted blower coil system heat pumps that do not have a constant-air-volume indoor blower, adjust for external static pressure as described in section 3.1.4.2.a of this appendix for cooling minimum air volume rate.

b. For ducted heat pumps tested with constant-air-volume indoor blowers installed, conduct all tests that specify the heating full-load air volume rate at an external static pressure that does not cause an automatic shutdown of the indoor blower or air volume rate variation Q_{Var}, defined in section 3.1.4.1.1.b of this appendix, greater than 10 percent, while being as close to, but not less than the target minimum external static pressure. Additional test steps as described in section 3.9.1(c) of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

c. When testing ducted, two-capacity blower coil system northern heat pumps (see section 1.2 of this appendix, Definitions), use the appropriate approach of the above two cases. For coil-only system northern heat pumps, the heating full-load air volume rate is the lesser of the rate specified by the manufacturer in the installation instructions included with the unit or 133 percent of the cooling full-load air volume rate. For this latter case, obtain the heating full-load air volume rate regardless of the pressure drop across the indoor coil assembly.

d. For ducted systems having multiple indoor blowers within a single indoor section, obtain the heating full-load air volume rate using the same ''on'' indoor blowers as used for the Cooling full-load air volume rate. Using the target external static pressure and the certified air volume rates, follow the procedures as described in section 3.1.4.4.2.a of this appendix if the indoor blowers are not constant-air-volume indoor blowers or as described in section 3.1.4.4.2.b of this appendix if the indoor blowers are constant-air-volume indoor blowers. The sum of the individual ''on'' indoor blowers' air volume rates is the heating full load air volume rate for the system.

3.1.4.4.3 Ducted Heating-Only Heat Pumps

Identify the certified heating full-load air volume rate and certified instructions for setting fan speed or controls. If there is no certified heating full-load air volume rate, use a value equal to the certified heating capacity of the unit times 400 scfm per 12,000 Btu/h. If there are no instructions for setting fan speed or controls, use the as-shipped settings.

a. For all ducted heating-only blower coil system heat pumps, except those having a constant-air-volume-rate indoor blower. Conduct the following steps only during the first test, the H1 or $H1_2$ est:

Step (1) Adjust the exhaust fan of the airflow measuring apparatus to achieve the certified heating full-load air volume rate.

Step (2) Measure the external static pressure.

Step (3) If this pressure is equal to or greater than the Table 3 minimum external static pressure that applies given the heating-only heat pump's rated heating capacity, the pressure requirement is satisfied; proceed to step 7 of this section. If this pressure is not equal to or greater than the applicable Table 3 minimum external static pressure, proceed to step 4 of this section;

Step (4) Increase the external static pressure by adjusting the exhaust fan of the airflow measuring apparatus until either (i) the pressure is equal to the applicable Table 3 minimum external static pressure or (ii) the measured air volume rate equals 90 percent or less of the heating full-load air volume rate, whichever occurs first;

Step (5) If the conditions of step 4 (i) of this section occur first, the pressure requirement is satisfied; proceed to step 7 of this section. If the conditions of step 4 (ii) of this section occur first, proceed to step 6 of this section;

Step (6) Make an incremental change to the setup of the indoor blower (*e.g.,* next highest fan motor pin setting, next highest fan motor speed) and repeat the evaluation process beginning above, at step 1 of this section. If the indoor blower setup cannot be further changed, increase the external static pressure by adjusting the exhaust fan of the airflow measuring apparatus until it equals the applicable Table 3 minimum external static pressure; proceed to step 7 of this section;

Step (7) The airflow constraints have been satisfied. Use the measured air volume rate as the heating full-load air volume rate. Use the final fan speed or control settings for all tests that use the heating full-load air volume rate.

b. For ducted heating-only blower coil system heat pumps having a constant-air-volume-rate indoor blower. For all tests that specify the heating full-load air volume rate, obtain an external static pressure that does not cause an automatic shutdown of the indoor blower or air volume rate variation Q_{Var}, defined in section 3.1.4.1.1.b of this appendix, greater than 10 percent, while being as close to, but not less than, the applicable Table 3 minimum. Additional test steps as described in section 3.9.1(c) of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

c. For ducted heating-only coil-only system heat pumps in the H1 or $H1_2$ Test, (exclusively), the pressure drop across the indoor coil assembly must not exceed 0.30 inches of water. If this pressure drop is exceeded, reduce the air volume rate until the measured pressure drop equals the specified maximum. Use this reduced air volume rate for all tests that require the heating full-load air volume rate.

3.1.4.4.4 Non-Ducted Heat Pumps, Including Non-Ducted Heating-Only Heat Pumps

For non-ducted heat pumps, the heating full-load air volume rate is the air volume rate that results during each test when the unit operates at an external static pressure of zero inches of water.

3.1.4.5 Heating Minimum Air Volume Rate

3.1.4.5.1. Ducted Heat Pumps Where the Heating and Cooling Minimum Air Volume Rates Are the Same

a. Use the cooling minimum air volume rate as the heating minimum air volume rate for:

(1) Ducted blower coil system heat pumps that do not have a constant-air-volume indoor blower, and that operates at the same airflow-control setting during both the A_1 and the $H1_1$ tests;

(2) Ducted blower coil system heat pumps with constant-air-flow indoor blowers installed that provide the same air flow for the A_1 and the $H1_1$ Tests; and

(3) Ducted coil-only system heat pumps.

b. For heat pumps that meet the above criteria ''1'' and ''3,'' no minimum requirements apply to the measured external or internal, respectively, static pressure. Use the final indoor blower control settings as determined when setting the cooling minimum air volume rate, and readjust the exhaust fan of the airflow measuring apparatus if

necessary to reset to the cooling minimum air volume rate obtained in section 3.1.4.2 of this appendix. For heat pumps that meet the above criterion ''2,'' test at an external static pressure that does not cause an automatic shutdown of the indoor blower or air volume rate variation Q_{Var}, defined in section 3.1.4.1.1.b of this appendix, greater than 10 percent, while being as close to, but not less than, the same target minimum external static pressure as was specified for the A_1 cooling mode test. Additional test steps as described in section 3.9.1(c) of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

3.1.4.5.2. Ducted Heat Pumps Where the Heating and Cooling Minimum Air Volume Rates Are Different Due to Changes in Indoor Blower Operation, *i.e.,* Speed Adjustment by the System Controls

Identify the certified heating minimum air volume rate and certified instructions for setting fan speed or controls. If there is no certified heating minimum air volume rate, use the final indoor blower control settings as determined when setting the cooling minimum air volume rate, and readjust the exhaust fan of the airflow measuring apparatus if necessary to reset to the cooling minimum air volume obtained in section 3.1.4.2 of this appendix. Otherwise, calculate the target minimum external static pressure as described in section 3.1.4.2 of this appendix.

a. For ducted blower coil system heat pumps that do not have a constant-air-volume indoor blower, adjust for external static pressure as described in section 3.1.4.2.a of this appendix for cooling minimum air volume rate.

b. For ducted heat pumps tested with constant-air-volume indoor blowers installed, conduct all tests that specify the heating minimum air volume rate—(*i.e.,* the $H0_1$, $H1_1$, $H2_1$, and $H3_1$ Tests)—at an external static pressure that does not cause an automatic shutdown of the indoor blower while being as close to, but not less than the air volume rate variation Q_{Var}, defined in section 3.1.4.1.1.b of this appendix, greater than 10 percent, while being as close to, but not less than the target minimum external static pressure. Additional test steps as described in section 3.9.1.c of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

c. For ducted two-capacity blower coil system northern heat pumps, use the appropriate approach of the above two cases.

d. For ducted two-capacity coil-only system heat pumps, use the cooling minimum air volume rate as the heating minimum air volume rate. For ducted two-capacity coil-only system northern heat pumps, use the cooling full-load air volume rate as the heating minimum air volume rate. For ducted two-capacity heating-only coil-only system heat pumps, the heating minimum air volume rate is the higher of the rate specified by the manufacturer in the test setup instructions included with the unit or 75 percent of the heating full-load air volume rate. During the laboratory tests on a coil-only system, obtain the heating minimum air volume rate without regard to the pressure drop across the indoor coil assembly.

e. For non-ducted heat pumps, the heating minimum air volume rate is the air volume rate that results during each test when the unit operates at an external static pressure of zero inches of water and at the indoor blower setting used at low compressor capacity (two-capacity system) or minimum compressor speed (variable-speed system). For units having a single-speed compressor and a variable-speed, variable-air-volume-rate indoor blower, use the lowest fan setting allowed for heating.

f. For ducted systems with multiple indoor blowers within a single indoor section, obtain the heating minimum air volume rate using the same ''on'' indoor blowers as used for the cooling minimum air volume rate. Using the target external static pressure and the certified air volume rates, follow the procedures as described in section 3.1.4.5.2.a of this appendix if the indoor blowers are not constant-air-volume indoor blowers or as described in section 3.1.4.5.2.b of this appendix if the indoor blowers are constant-air-volume indoor blowers. The sum of the individual ''on'' indoor blowers' air volume rates is the heating full-load air volume rate for the system.

3.1.4.6 Heating Intermediate Air Volume Rate

Identify the certified heating intermediate air volume rate and certified instructions for setting fan speed or controls. If there is no certified heating intermediate air volume rate, use the final indoor blower control settings as determined when setting the heating full-load air volume rate, and readjust the exhaust fan of the airflow measuring apparatus if necessary to reset to the cooling full load air volume obtained in section 3.1.4.2 of this appendix. Calculate the target minimum external static pressure as described in section 3.1.4.2 of this appendix.

a. For ducted blower coil system heat pumps that do not have a constant-air-volume indoor blower, adjust for external static pressure as described in section 3.1.4.2.a of this appendix for cooling minimum air volume rate.

b. For ducted heat pumps tested with constant-air-volume indoor blowers installed, conduct the $H2_V$ Test at an external static pressure that does not cause an automatic shutdown of the indoor blower or air volume rate variation Q_{Var}, defined in section 3.1.4.1.1.b of this appendix, greater than 10 percent, while being as close to, but not less than the target minimum external static pressure. Additional test steps as described in section 3.9.1(c) of this appendix are required if the measured external static pressure exceeds the target value by more than 0.03 inches of water.

c. For non-ducted heat pumps, the heating intermediate air volume rate is the air volume rate that results when the heat pump operates at an external static pressure of zero inches of water and at the fan speed selected by the controls of the unit for the $H2_V$ Test conditions.

3.1.4.7 Heating Nominal Air Volume Rate

The manufacturer must specify the heating nominal air volume rate and the instructions for setting fan speed or controls. Calculate target minimum external static pressure as described in section 3.1.4.2 of this appendix. Make adjustments as described in section 3.1.4.6 of this appendix for heating intermediate air volume rate so that the target minimum external static pressure is met or exceeded.

3.1.5 Indoor Test Room Requirement When the Air Surrounding the Indoor Unit Is Not Supplied From the Same Source as the Air Entering the Indoor Unit

If using a test set-up where air is ducted directly from the air reconditioning apparatus to the indoor coil inlet (see Figure 2, Loop Air-Enthalpy Test Method Arrangement, of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3)), maintain the dry bulb temperature within the test room within ±5.0 °F of the applicable sections 3.2 and 3.6 dry bulb temperature test condition for the air entering the indoor unit. Dew point shall be within 2 °F of the required inlet conditions.

3.1.6 Air Volume Rate Calculations

For all steady-state tests and for frost accumulation ($H2$, $H2_1$, $H2_2$, $H2_V$) tests,

calculate the air volume rate through the indoor coil as specified in sections 7.7.2.1 and 7.7.2.2 of ANSI/ASHRAE 37–2009. When using the outdoor air enthalpy method, follow sections 7.7.2.1 and 7.7.2.2 of ANSI/ASHRAE 37–2009 to calculate the air volume rate through the outdoor coil. To express air volume rates in terms of standard air, use:

Equation 3-1

$$\overline{\dot{V}_s} = \frac{\overline{\dot{V}_{mx}}}{0.075\,\frac{lbm_{da}}{ft^3} * v'_n * [1+W_n]} = \frac{\overline{\dot{V}_{mx}}}{0.075\,\frac{lbm_{da}}{ft^3} * v_n}$$

Where:

$\overline{V}_s$ = air volume rate of standard (dry) air, $(ft^3/min)_{da}$

$\overline{V}_{mx}$ = air volume rate of the air-water vapor mixture, $(ft^3/min)_{mx}$

v'_n = specific volume of air-water vapor mixture at the nozzle, ft^3 per lbm of the air-water vapor mixture

W_n = humidity ratio at the nozzle, lbm of water vapor per lbm of dry air

0.075 = the density associated with standard (dry) air, (lbm/ft^3)

v_n = specific volume of the dry air portion of the mixture evaluated at the dry-bulb temperature, vapor content, and barometric pressure existing at the nozzle, ft^3 per lbm of dry air.

NOTE: In the first printing of ANSI/ASHRAE 37–2009, the second IP equation for Q_{mi} should read, $Q_{mi} = 1097 C A_n \sqrt{P_V v'_n}$

3.1.7 Test Sequence

Manufacturers may optionally operate the equipment under test for a ''break-in'' period, not to exceed 20 hours, prior to conducting the test method specified in this section. A manufacturer who elects to use this optional compressor break-in period in its certification testing should record this information (including the duration) in the test data underlying the certified ratings that are required to be maintained under 10 CFR 429.71. When testing a ducted unit (except if a heating-only heat pump), conduct the A or A_2 Test first to establish the cooling full-load air volume rate. For ducted heat pumps where the heating and cooling full-load air volume rates are different, make the first heating mode test one that requires the heating full-load air volume rate. For ducted heating-only heat pumps, conduct the H1 or $H1_2$ Test first to establish the heating full-load air volume rate. When conducting a cyclic test, always conduct it immediately after the steady-state test that requires the same test conditions. For variable-speed systems, the first test using the cooling minimum air volume rate should precede the E_V Test, and the first test using the heating minimum air volume rate must precede the $H2_V$ Test. The test laboratory makes all other decisions on the test sequence.

3.1.8 Requirement for the Air Temperature Distribution Leaving the Indoor Coil

For at least the first cooling mode test and the first heating mode test, monitor the temperature distribution of the air leaving the indoor coil using the grid of individual sensors described in sections 2.5 and 2.5.4 of this appendix. For the 30-minute data collection interval used to determine capacity, the maximum spread among the outlet dry bulb temperatures from any data sampling must not exceed 1.5 °F. Install the mixing devices described in section 2.5.4.2 of this appendix to minimize the temperature spread.

3.1.9 Requirement for the Air Temperature Distribution Entering the Outdoor Coil

Monitor the temperatures of the air entering the outdoor coil using the grid of temperature sensors described in section 2.11 of this appendix. For the 30-minute data collection interval used to determine capacity, the maximum difference between dry bulb temperatures measured at any of these locations must not exceed 1.5 °F.

3.1.10 Control of Auxiliary Resistive Heating Elements

Except as noted, disable heat pump resistance elements used for heating indoor air at all times, including during defrost cycles and if they are normally regulated by a heat comfort controller. For heat pumps equipped with a heat comfort controller, enable the heat pump resistance elements only during the below-described, short test. For single-speed heat pumps covered under section 3.6.1 of this appendix, the short test follows the H1 or, if conducted, the H1C Test. For two-capacity heat pumps and heat pumps covered under section 3.6.2 of this appendix, the short test follows the $H1_2$ Test. Set the heat comfort controller to provide the maximum supply air temperature. With the heat pump operating and while maintaining the heating full-load air volume rate, measure the temperature of the air leaving the indoor-side beginning 5 minutes after activating the heat comfort controller. Sample the outlet dry-bulb temperature at regular intervals that span 5 minutes or less. Collect data for 10 minutes, obtaining at least 3 samples. Calculate the average outlet temperature over the 10-minute interval, T_{CC}.

3.2 Cooling Mode Tests for Different Types of Air Conditioners and Heat Pumps

3.2.1 Tests for a System Having a Single-Speed Compressor and Fixed Cooling Air Volume Rate

This set of tests is for single-speed-compressor units that do not have a cooling minimum air volume rate or a cooling intermediate air volume rate that is different than the cooling full load air volume rate. Conduct two steady-state wet coil tests, the A and B Tests. Use the two optional dry-coil tests, the steady-state C Test and the cyclic D Test, to determine the cooling mode cyclic degradation coefficient, C_D^c. A default value for C_D^c may be used in lieu of conducting the cyclic test. The default value of C_D^c is 0.20. If testing outdoor units of central air conditioners or heat pumps that are not sold with indoor units, assign C_D^c the default value of 0.25. Table 4 specifies test conditions for these four tests.

TABLE 4—COOLING MODE TEST CONDITIONS FOR UNITS HAVING A SINGLE-SPEED COMPRESSOR AND A FIXED COOLING AIR VOLUME RATE

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Cooling air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
A Test—required (steady, wet coil)	80	67	95	[1] 75	Cooling full-load.[2]
B Test—required (steady, wet coil)	80	67	82	[1] 65	Cooling full-load.[2]
C Test—optional (steady, dry coil)	80	([3])	82		Cooling full-load.[2]
D Test—optional (cyclic, dry coil)	80	([3])	82		([4])

[1] The specified test condition only applies if the unit rejects condensate to the outdoor coil.
[2] Defined in section 3.1.4.1 of this appendix.
[3] The entering air must have a low enough moisture content so no condensate forms on the indoor coil. (It is recommended that an indoor wet-bulb temperature of 57 °F or less be used.)
[4] Maintain the airflow nozzles static pressure difference or velocity pressure during the ON period at the same pressure difference or velocity pressure as measured during the C Test.

3.2.2 Tests for a Unit Having a Single-Speed Compressor Where the Indoor Section Uses a Single Variable-Speed Variable-Air-Volume Rate Indoor Blower or mUltiple Indoor Blowers

3.2.2.1 Indoor Blower Capacity Modulation That Correlates With the Outdoor Dry Bulb Temperature or Systems With a Single Indoor cOil but Multiple Indoor Blowers

Conduct four steady-state wet coil tests: The A_2, A_1, B_2, and B_1 tests. Use the two optional dry-coil tests, the steady-state C_1 test and the cyclic D_1 test, to determine the cooling mode cyclic degradation coefficient, C_D^c. A default value for C_D^c may be used in lieu of conducting the cyclic test. The default value of C_D^c is 0.20.

3.2.2.2 Indoor Blower Capacity Modulation Based on Adjusting the Sensible to Total (S/T) Cooling Capacity Ratio

The testing requirements are the same as specified in section 3.2.1 of this appendix and Table 4. Use a cooling full-load air volume rate that represents a normal installation. If performed, conduct the steady-state C Test and the cyclic D Test with the unit operating in the same S/T capacity control mode as used for the B Test.

TABLE 5—COOLING MODE TEST CONDITIONS FOR UNITS WITH A SINGLE-SPEED COMPRESSOR THAT MEET THE SECTION 3.2.2.1 INDOOR UNIT REQUIREMENTS

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Cooling air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
A_2 Test—required (steady, wet coil)	80	67	95	[1] 75	Cooling full-load.[2]
A_1 Test—required (steady, wet coil)	80	67	95	[1] 75	Cooling minimum.[3]
B_2 Test—required (steady, wet coil)	80	67	82	[1] 65	Cooling full-load.[2]
B_1 Test—required (steady, wet coil)	80	67	82	[1] 65	Cooling minimum.[3]
C_1 Test[4]—optional (steady, dry coil)	80	([4])	82		Cooling minimum.[3]
D_1 Test[4]—optional (cyclic, dry coil)	80	([4])	82		([5])

[1] The specified test condition only applies if the unit rejects condensate to the outdoor coil.
[2] Defined in section 3.1.4.1 of this appendix.
[3] Defined in section 3.1.4.2 of this appendix.
[4] The entering air must have a low enough moisture content so no condensate forms on the indoor coil. (It is recommended that an indoor wet-bulb temperature of 57 °F or less be used.)
[5] Maintain the airflow nozzles static pressure difference or velocity pressure during the ON period at the same pressure difference or velocity pressure as measured during the C_1 Test.

3.2.3 Tests for a Unit Having a Two-Capacity Compressor (See Section 1.2 of This Appendix, Definitions)

a. Conduct four steady-state wet coil tests: the A_2, B_2, B_1, and F_1 Tests. Use the two optional dry-coil tests, the steady-state C_1 Test and the cyclic D_1 Test, to determine the cooling-mode cyclic-degradation coefficient, C_D^c. A default value for C_D^c may be used in lieu of conducting the cyclic test. The default value of C_D^c is 0.20. Table 6 specifies test conditions for these six tests.

b. For units having a variable speed indoor blower that is modulated to adjust the sensible to total (S/T) cooling capacity ratio, use cooling full-load and cooling minimum air volume rates that represent a normal installation. Additionally, if conducting the dry-coil tests, operate the unit in the same S/T capacity control mode as used for the B_1 Test.

c. Test two-capacity, northern heat pumps (see section 1.2 of this appendix, Definitions) in the same way as a single speed heat pump with the unit operating exclusively at low compressor capacity (see section 3.2.1 of this appendix and Table 4).

d. If a two-capacity air conditioner or heat pump locks out low-capacity operation at higher outdoor temperatures, then use the two dry-coil tests, the steady-state C_2 Test and the cyclic D_2 Test, to determine the cooling-mode cyclic-degradation coefficient that only applies to on/off cycling from high capacity, $C_D^c(k = 2)$. The default $C_D^c(k = 2)$ is the same value as determined or assigned for the low-capacity cyclic-degradation coefficient, C_D^c [or equivalently, $C_D^c(k = 1)$].

TABLE 6—COOLING MODE TEST CONDITIONS FOR UNITS HAVING A TWO-CAPACITY COMPRESSOR

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Compressor capacity	Cooling air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb		
A_2 Test—required (steady, wet coil).	80	67	95	[1] 75	High	Cooling Full-Load.[2]
B_2 Test—required (steady, wet coil).	80	67	82	[1] 65	High	Cooling Full-Load.[2]
B_1 Test—required (steady, wet coil).	80	67	82	[1] 65	Low	Cooling Minimum.[3]
C_2 Test—optional (steady, dry-coil).	80	([4])	82	.....	High	Cooling Full-Load.[2]
D_2 Test—optional (cyclic, dry-coil).	80	([4])	82	.....	High	([5])
C_1 Test—optional (steady, dry-coil).	80	([4])	82	.....	Low	Cooling Minimum.[3]
D_1 Test—optional (cyclic, dry-coil).	80	([4])	82	.....	Low	([6])
F_1 Test—required (steady, wet coil).	80	67	67	[1] 53.5	Low	Cooling Minimum.[3]

[1] The specified test condition only applies if the unit rejects condensate to the outdoor coil.
[2] Defined in section 3.1.4.1 of this appendix.
[3] Defined in section 3.1.4.2 of this appendix.
[4] The entering air must have a low enough moisture content so no condensate forms on the indoor coil. DOE recommends using an indoor air wet-bulb temperature of 57 °F or less.
[5] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during the ON period at the same pressure or velocity as measured during the C_2 Test.
[6] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during the ON period at the same pressure or velocity as measured during the C_1 Test.

3.2.4 Tests for a Unit Having a Variable-Speed Compressor

a. Conduct five steady-state wet coil tests: The A_2, E_V, B_2, B_1, and F_1 Tests. Use the two optional dry-coil tests, the steady-state G_1 Test and the cyclic I_1 Test, to determine the cooling mode cyclic degradation coefficient, $C_D{}^c$. A default value for $C_D{}^c$ may be used in lieu of conducting the cyclic test. The default value of $C_D{}^c$ is 0.25. Table 7 specifies test conditions for these seven tests. The compressor shall operate at the same cooling full speed, measured by RPM or power input frequency (Hz), for both the A_2 and B_2 tests. The compressor shall operate at the same cooling minimum speed, measured by RPM or power input frequency (Hz), for the B_1, F_1, G_1, and I_1 tests. Determine the cooling intermediate compressor speed cited in Table 7 using:

$$\text{Cooling intermediate speed} = \text{Cooling minimum speed} + \frac{\text{Cooling full speed} - \text{Cooling minimum speed}}{3}$$

where a tolerance of plus 5 percent or the next higher inverter frequency step from that calculated is allowed.

b. For units that modulate the indoor blower speed to adjust the sensible to total (S/T) cooling capacity ratio, use cooling full-load, cooling intermediate, and cooling minimum air volume rates that represent a normal installation. Additionally, if conducting the dry-coil tests, operate the unit in the same S/T capacity control mode as used for the F_1 Test.

c. For multiple-split air conditioners and heat pumps (except where noted), the following procedures supersede the above requirements: For all Table 7 tests specified for a minimum compressor speed, at least one indoor unit must be turned off. The manufacturer shall designate the particular indoor unit(s) that is turned off. The manufacturer must also specify the compressor speed used for the Table 7 E_V Test, a cooling-mode intermediate compressor speed that falls within ¼ and ¾ of the difference between the full and minimum cooling-mode speeds. The manufacturer should prescribe an intermediate speed that is expected to yield the highest EER for the given E_V Test conditions and bracketed compressor speed range. The manufacturer can designate that one or more indoor units are turned off for the E_V Test.

TABLE 7—COOLING MODE TEST CONDITION FOR UNITS HAVING A VARIABLE-SPEED COMPRESSOR

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Compressor speed	Cooling air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb		
A_2 Test—required (steady, wet coil).	80	67	95	[1] 75	Cooling Full	Cooling Full-Load.[2]
B_2 Test—required (steady, wet coil).	80	67	82	[1] 65	Cooling Full	Cooling Full-Load.[2]
E_V Test—required (steady, wet coil).	80	67	87	[1] 69	Cooling Intermediate	Cooling Intermediate.[3]
B_1 Test—required (steady, wet coil).	80	67	82	[1] 65	Cooling Minimum	Cooling Minimum.[4]
F_1 Test—required (steady, wet coil).	80	67	67	[1] 53.5	Cooling Minimum	Cooling Minimum.[4]
G_1 Test[5]—optional (steady, dry-coil).	80	([6])	67		Cooling Minimum	Cooling Minimum.[4]
I_1 Test[5]—optional (cyclic, dry-coil).	80	([6])	67		Cooling Minimum	([6])

[1] The specified test condition only applies if the unit rejects condensate to the outdoor coil.
[2] Defined in section 3.1.4.1 of this appendix.
[3] Defined in section 3.1.4.3 of this appendix.
[4] Defined in section 3.1.4.2 of this appendix.
[5] The entering air must have a low enough moisture content so no condensate forms on the indoor coil. DOE recommends using an indoor air wet bulb temperature of 57 °F or less.
[6] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during the ON period at the same pressure difference or velocity pressure as measured during the G_1 Test.

3.2.5 Cooling Mode Tests for Northern Heat Pumps With Triple-Capacity Compressors

Test triple-capacity, northern heat pumps for the cooling mode in the same way as specified in section 3.2.3 of this appendix for units having a two-capacity compressor.

3.2.6 Tests for an Air Conditioner or Heat Pump Having a Single Indoor Unit Having Multiple Indoor Blowers and Offering Two Stages of Compressor Modulation

Conduct the cooling mode tests specified in section 3.2.3 of this appendix.

3.3 Test Procedures for Steady-State Wet Coil Cooling Mode Tests (the A, A_2, A_1, B, B_2, B_1, E_V, and F_1 Tests)

a. For the pretest interval, operate the test room reconditioning apparatus and the unit to be tested until maintaining equilibrium conditions for at least 30 minutes at the specified section 3.2 test conditions. Use the exhaust fan of the airflow measuring apparatus and, if installed, the indoor blower of the test unit to obtain and then maintain the indoor air volume rate and/or external static pressure specified for the particular test. Continuously record (see section 1.2 of this appendix, Definitions):

(1) The dry-bulb temperature of the air entering the indoor coil,

(2) The water vapor content of the air entering the indoor coil,

(3) The dry-bulb temperature of the air entering the outdoor coil, and

(4) For the section 2.2.4 of this appendix cases where its control is required, the water vapor content of the air entering the outdoor coil.

Refer to section 3.11 of this appendix for additional requirements that depend on the selected secondary test method.

b. After satisfying the pretest equilibrium requirements, make the measurements specified in Table 3 of ANSI/ASHRAE 37–2009 for the indoor air enthalpy method and the user-selected secondary method. Make said Table 3 measurements at equal intervals that span 5 minutes or less. Continue data sampling until reaching a 30-minute period (*e.g.,* seven consecutive 5-minute samples) where the test tolerances specified in Table 8 are satisfied. For those continuously recorded parameters, use the entire data set from the 30-minute interval to evaluate Table 8 compliance. Determine the average electrical power consumption of the air conditioner or heat pump over the same 30-minute interval.

c. Calculate indoor-side total cooling capacity and sensible cooling capacity as specified in sections 7.3.3.1 and 7.3.3.3 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3). To calculate capacity, use the averages of the measurements (*e.g.* inlet and outlet dry bulb and wet bulb temperatures measured at the psychrometers) that are continuously recorded for the same 30-minute interval used as described above to evaluate compliance with test tolerances. Do not adjust the parameters used in calculating capacity for the permitted variations in test conditions. Evaluate air enthalpies based on the measured barometric pressure. Use the values of the specific heat of air given in section 7.3.3.1 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3) for calculation of the sensible cooling capacities. Assign the average total space cooling capacity, average sensible cooling capacity, and electrical power consumption over the 30-minute data collection interval to the variables $\dot{Q}_c^k(T)$, $\dot{Q}_{sc}^k(T)$ and $\dot{E}_c^k(T)$, respectively. For these three variables, replace the ''T'' with the nominal outdoor temperature at which the test was conducted. The superscript k is used only when testing multi-capacity units. Use the superscript k = 2 to denote a test with the unit operating at high capacity or full speed, k = 1 to denote low capacity or minimum speed, and k = v to denote the intermediate speed.

d. For coil-only system tests, decrease $\dot{Q}_c^k(T)$ by

$$\frac{1250\ Btu/h}{1000\ scfm} * \overline{\dot{V}}_s$$

and increase $\dot{E}_c^k(T)$ by,

$$\frac{365\ W}{1000\ scfm} * \overline{\dot{V}}_s$$

where $\overline{\dot{V}}_s$ is the average measured indoor air volume rate expressed in units of cubic feet per minute of standard air (scfm).

TABLE 8—TEST OPERATING AND TEST CONDITION TOLERANCES FOR SECTION 3.3 STEADY-STATE WET COIL COOLING MODE TESTS AND SECTION 3.4 DRY COIL COOLING MODE TESTS

	Test operating tolerance [1]	Test condition tolerance [1]
Indoor dry-bulb, °F:		
Entering temperature	2.0	0.5
Leaving temperature	2.0	.....
Indoor wet-bulb, °F:		
Entering temperature	1.0	[2] 0.3
Leaving temperature	[2] 1.0	.....
Outdoor dry-bulb, °F:		
Entering temperature	2.0	0.5
Leaving temperature	[3] 2.0	.....
Outdoor wet-bulb, °F:		
Entering temperature	1.0	[4] 0.3
Leaving temperature	[3] 1.0	.....
External resistance to airflow, inches of water	0.12	[5] 0.02
Electrical voltage, % of rdg	2.0	1.5
Nozzle pressure drop, % of rdg	8.0	.....

[1] See section 1.2 of this appendix, Definitions.
[2] Only applies during wet coil tests; does not apply during steady-state, dry coil cooling mode tests.
[3] Only applies when using the outdoor air enthalpy method.
[4] Only applies during wet coil cooling mode tests where the unit rejects condensate to the outdoor coil.
[5] Only applies when testing non-ducted units.

e. For air conditioners and heat pumps having a constant-air-volume-rate indoor blower, the five additional steps listed below are required if the average of the measured external static pressures exceeds the applicable sections 3.1.4 minimum (or target) external static pressure (ΔP_{min}) by 0.03 inches of water or more.

(1) Measure the average power consumption of the indoor blower motor ($\dot{E}_{fan,1}$) and record the corresponding external static pressure (ΔP_1) during or immediately following the 30-minute interval used for determining capacity.

(2) After completing the 30-minute interval and while maintaining the same test conditions, adjust the exhaust fan of the airflow measuring apparatus until the external static pressure increases to approximately $\Delta P_1 + (\Delta P_1 - \Delta P_{min})$.

(3) After re-establishing steady readings of the fan motor power and external static pressure, determine average values for the indoor blower power ($\dot{E}_{fan,2}$) and the external static pressure (ΔP_2) by making measurements over a 5-minute interval.

(4) Approximate the average power consumption of the indoor blower motor at ΔP_{min} using linear extrapolation:

$$\dot{E}_{fan,\min} = \frac{\dot{E}_{fan,2} - \dot{E}_{fan,1}}{\Delta P_2 - \Delta P_1}(\Delta P_{\min} - \Delta P_1) + \dot{E}_{fan,1}$$

(5) Increase the total space cooling capacity, $\dot{Q}_c^k(T)$, by the quantity ($\dot{E}_{fan,1} - \dot{E}_{fan,min}$), when expressed on a Btu/h basis. Decrease the total electrical power, $\dot{E}_c^k(T)$, by the same fan power difference, now expressed in watts.

3.4 Test Procedures for the Steady-State Dry-Coil Cooling-Mode Tests (the C, C_1, C_2, and G_1 Tests)

a. Except for the modifications noted in this section, conduct the steady-state dry coil cooling mode tests as specified in section 3.3 of this appendix for wet coil tests. Prior to recording data during the steady-state dry coil test, operate the unit at least one hour after achieving dry coil conditions. Drain the drain pan and plug the drain opening. Thereafter, the drain pan should remain completely dry.

b. Denote the resulting total space cooling capacity and electrical power derived from the test as $\dot{Q}_{ss,dry}$ and $\dot{E}_{ss,dry}$. With regard to a section 3.3 deviation, do not adjust $\dot{Q}_{ss,dry}$ for duct losses (*i.e.,* do not apply section 7.3.3.3 of ANSI/ASHRAE 37–2009). In preparing for the section 3.5 cyclic tests of this appendix, record the average indoor-side air volume rate, $\overline{\dot{V}}$, specific heat of the air, Cp,a (expressed on dry air basis), specific volume of the air at the nozzles, v'_n, humidity ratio at the nozzles, W_n, and either pressure difference or velocity pressure for the flow nozzles.

For units having a variable-speed indoor blower (that provides either a constant or variable air volume rate) that will or may be tested during the cyclic dry coil cooling mode test with the indoor blower turned off (see section 3.5 of this appendix), include the electrical power used by the indoor blower motor among the recorded parameters from the 30-minute test.

c. If the temperature sensors used to provide the primary measurement of the indoor-side dry bulb temperature difference during the steady-state dry-coil test and the subsequent cyclic dry-coil test are different, include measurements of the latter sensors among the regularly sampled data. Beginning at the start of the 30-minute data collection period, measure and compute the indoor-side air dry-bulb temperature difference using both sets of instrumentation, ΔT (Set SS) and ΔT (Set CYC), for each equally spaced data sample. If using a consistent data sampling rate that is less than 1 minute, calculate and record minutely averages for the two temperature differences. If using a consistent sampling rate of one minute or more, calculate and record the two temperature differences from each data sample. After having recorded the seventh (i = 7) set of temperature differences, calculate the following ratio using the first seven sets of values:

$$F_{CD} = \frac{1}{7}\sum_{i-6}^{i}\frac{\Delta T(Set\ SS)}{\Delta T(Set\ CYC)}$$

Each time a subsequent set of temperature differences is recorded (if sampling more frequently than every 5 minutes), calculate F_{CD} using the most recent seven sets of values. Continue these calculations until the 30-minute period is completed or until a value for F_{CD} is calculated that falls outside the allowable range of 0.94–1.06. If the latter occurs, immediately suspend the test and identify the cause for the disparity in the two temperature difference measurements. Recalibration of one or both sets of instrumentation may be required. If all the values for F_{CD} are within the allowable range, save the final value of the ratio from the 30-minute test as F_{CD}*. If the temperature sensors used to provide the primary measurement of the indoor-side dry bulb temperature difference during the steady-state dry-coil test and the subsequent cyclic dry-coil test are the same, set F_{CD}* = 1.

3.5 Test Procedures for the Cyclic Dry-Coil Cooling-Mode Tests (the D, D_1, D_2, and I_1 Tests)

After completing the steady-state dry-coil test, remove the outdoor air enthalpy method test apparatus, if connected, and begin manual OFF/ON cycling of the unit's compressor. The test set-up should otherwise be identical to the set-up used during the steady-state dry coil test. When testing heat pumps, leave the reversing valve during the compressor OFF cycles in the same position as used for the compressor ON cycles, unless automatically changed by the controls of the unit. For units having a variable-speed indoor blower, the manufacturer has the option of electing at the outset whether to conduct the cyclic test with the indoor blower enabled or disabled. Always revert to testing with the indoor blower disabled if cyclic testing with the fan enabled is unsuccessful.

a. For all cyclic tests, the measured capacity must be adjusted for the thermal mass stored in devices and connections located between measured points. Follow the procedure outlined in section 7.4.3.4.5 of ASHRAE 116–2010 (incorporated by reference, see § 430.3) to ensure any required measurements are taken.

b. For units having a single-speed or two-capacity compressor, cycle the compressor OFF for 24 minutes and then ON for 6 minutes ($\Delta\tau_{cyc,dry}$ = 0.5 hours). For units having a variable-speed compressor, cycle the compressor OFF for 48 minutes and then ON for 12 minutes ($\Delta\tau_{cyc,dry}$ = 1.0 hours). Repeat the OFF/ON compressor cycling pattern until the test is completed. Allow the controls of the unit to regulate cycling of the outdoor fan. If an upturned duct is used, measure the dry-bulb temperature at the inlet of the device at least once every minute and ensure that its test operating tolerance is within 1.0 °F for each compressor OFF period.

c. Sections 3.5.1 and 3.5.2 of this appendix specify airflow requirements through the indoor coil of ducted and non-ducted indoor units, respectively. In all cases, use the exhaust fan of the airflow measuring apparatus (covered under section 2.6 of this appendix) along with the indoor blower of the unit, if installed and operating, to approximate a step response in the indoor coil airflow. Regulate the exhaust fan to quickly obtain and then maintain the flow nozzle static pressure difference or velocity pressure at the same value as was measured during the steady-state dry coil test. The pressure difference or velocity pressure should be within 2 percent of the value from the steady-state dry coil test within 15 seconds after airflow initiation. For units having a variable-speed indoor blower that ramps when cycling on and/or off, use the exhaust fan of the airflow measuring apparatus to impose a step response that begins at the initiation of ramp up and ends at the termination of ramp down.

d. For units having a variable-speed indoor blower, conduct the cyclic dry coil test using the pull-thru approach described below if any of the following occur when testing with the fan operating:

(1) The test unit automatically cycles off;

(2) Its blower motor reverses; or

(3) The unit operates for more than 30 seconds at an external static pressure that is 0.1 inches of water or more higher than the value measured during the prior steady-state test.

For the pull-thru approach, disable the indoor blower and use the exhaust fan of the airflow measuring apparatus to generate the specified flow nozzles static pressure difference or velocity pressure. If the exhaust fan cannot deliver the required pressure difference because of resistance created by the unpowered indoor blower, temporarily remove the indoor blower.

e. Conduct three complete compressor OFF/ON cycles with the test tolerances given in Table 9 satisfied. Calculate the degradation coefficient C_D for each complete cycle. If all three C_D values are within 0.02 of the average C_D then stability has been achieved, and the highest C_D value of these three shall be used. If stability has not been achieved, conduct additional cycles, up to a maximum of eight cycles total, until stability has been achieved between three consecutive cycles. Once stability has been achieved, use the highest C_D value of the three consecutive cycles that establish stability. If stability has not been achieved after eight cycles, use the highest C_D from cycle one through cycle eight, or the default C_D, whichever is lower.

f. With regard to the Table 9 parameters, continuously record the dry-bulb temperature of the air entering the indoor and outdoor coils during periods when air flows through the respective coils. Sample the water vapor content of the indoor coil inlet air at least every 2 minutes during periods when air flows through the coil. Record external static pressure and the air volume rate indicator (either nozzle pressure difference or velocity pressure) at least every minute during the interval that air flows through the indoor coil. (These regular measurements of the airflow rate indicator are in addition to

the required measurement at 15 seconds after flow initiation.) Sample the electrical voltage at least every 2 minutes beginning 30 seconds after compressor start-up. Continue until the compressor, the outdoor fan, and the indoor blower (if it is installed and operating) cycle off.

g. For ducted units, continuously record the dry-bulb temperature of the air entering (as noted above) and leaving the indoor coil. Or if using a thermopile, continuously record the difference between these two temperatures during the interval that air flows through the indoor coil. For non-ducted units, make the same dry-bulb temperature measurements beginning when the compressor cycles on and ending when indoor coil airflow ceases.

h. Integrate the electrical power over complete cycles of length $\Delta\tau_{cyc,dry}$. For ducted blower coil systems tested with the unit's indoor blower operating for the cycling test, integrate electrical power from indoor blower OFF to indoor blower OFF. For all other ducted units and for non-ducted units, integrate electrical power from compressor OFF to compressor OFF. (Some cyclic tests will use the same data collection intervals to determine the electrical energy and the total space cooling. For other units, terminate data collection used to determine the electrical energy before terminating data collection used to determine total space cooling.)

TABLE 9—TEST OPERATING AND TEST CONDITION TOLERANCES FOR CYCLIC DRY COIL COOLING MODE TESTS

	Test operating tolerance [1]	Test condition tolerance [1]
Indoor entering dry-bulb temperature,[2] °F	2.0	0.5
Indoor entering wet-bulb temperature, °F	.....	([3])
Outdoor entering dry-bulb temperature,[2] °F	2.0	0.5
External resistance to airflow,[2] inches of water	0.12	.....
Airflow nozzle pressure difference or velocity pressure,[2] % of reading	8.0	[4] 2.0
Electrical voltage [5], % of rdg.	2.0	1.5

[1]See section 1.2 of this appendix, Definitions.
[2]Applies during the interval that air flows through the indoor (outdoor) coil except for the first 30 seconds after flow initiation. For units having a variable-speed indoor blower that ramps, the tolerances listed for the external resistance to airflow apply from 30 seconds after achieving full speed until ramp down begins.
[3]Shall at no time exceed a wet-bulb temperature that results in condensate forming on the indoor coil.
[4]The test condition shall be the average nozzle pressure difference or velocity pressure measured during the steady-state dry coil test.
[5]Applies during the interval when at least one of the following—the compressor, the outdoor fan, or, if applicable, the indoor blower—are operating except for the first 30 seconds after compressor start-up.

If the Table 9 tolerances are satisfied over the complete cycle, record the measured electrical energy consumption as $e_{cyc,dry}$ and express it in units of watt-hours. Calculate the total space cooling delivered, $q_{cyc,dry}$, in units of Btu using,

$$q_{cyc,dry} = \frac{60*\overline{\dot{V}}*C_{p,a}*\Gamma}{[v'_n*(1+W_n)]} = \frac{60*\overline{\dot{V}}*C_{p,a}*\Gamma}{v_n} \quad \text{and} \quad \Gamma = F^*_{CD}\int_{\tau_1}^{\tau_2}[T_{a1}(\tau) - T_{a2}(\tau)]\delta\tau,\ hr * °\text{F}$$

Where,

$\overline{\dot{V}}$, $C_{p,a}$, v'_n (or v_n), W_n, and F_{CD}* are the values recorded during the section 3.4 dry coil steady-state test and

$T_{al}(\tau)$ = dry bulb temperature of the air entering the indoor coil at time τ, °F.

$T_{a2}(\tau)$ = dry bulb temperature of the air leaving the indoor coil at time τ, °F.

τ_1 = for ducted units, the elapsed time when airflow is initiated through the indoor coil; for non-ducted units, the elapsed time when the compressor is cycled on, hr.

τ_2 = the elapsed time when indoor coil airflow ceases, hr.

Adjust the total space cooling delivered, $q_{cyc,dry}$, according to calculation method outlined in section 7.4.3.4.5 of ASHRAE 116–2010 (incorporated by reference, see § 430.3).

3.5.1 Procedures When Testing Ducted Systems

The automatic controls that are normally installed with the test unit must govern the OFF/ON cycling of the air moving equipment on the indoor side (exhaust fan of the airflow measuring apparatus and, if installed, the indoor blower of the test unit). For example, for ducted coil-only systems rated based on using a fan time delay relay, control the indoor coil airflow according to the rated ON and/or OFF delays provided by the relay. For ducted units having a variable-speed indoor blower that has been disabled (and possibly removed), start and stop the indoor airflow at the same instances as if the fan were enabled. For all other ducted coil-only systems, cycle the indoor coil airflow in unison with the cycling of the compressor. If air damper boxes are used, close them on the inlet and outlet side during the OFF period. Airflow through the indoor coil should stop within 3 seconds after the automatic controls of the test unit (act to) de-energize the indoor blower. For ducted coil-only systems (excluding the special case where a variable-speed fan is temporarily removed), increase $e_{cyc,dry}$ by the quantity,

Equation 3.5-2. $$\frac{365\ W}{1000\ scfm} * \overline{\dot{V}}_s * [\tau_2 - \tau_1]$$

and decrease $q_{cyc,dry}$ by,

Equation 3.5-3. $$\frac{1250\ Btu/h}{1000\ scfm} * \overline{\dot{V}}_s * [\tau_2 - \tau_1]$$

where $\overline{\dot{V}}_s$ is the average indoor air volume rate from the section 3.4 dry coil steady-state test and is expressed in units of cubic feet per minute of standard air (scfm). For units having a variable-speed indoor blower that is disabled during the cyclic test, increase $e_{cyc,dry}$ and decrease $q_{cyc,dry}$ based on:

a. The product of $[\tau_2 - \tau_1]$ and the indoor blower power measured during or following the dry coil steady-state test; or,

b. The following algorithm if the indoor blower ramps its speed when cycling.

(1) Measure the electrical power consumed by the variable-speed indoor blower at a minimum of three operating conditions: At the speed/air volume rate/external static pressure that was measured during the steady-state test, at operating conditions associated with the midpoint of the ramp-up interval, and at conditions associated with the midpoint of the ramp-down interval. For these measurements, the tolerances on the airflow volume or the external static pressure are the same as required for the section 3.4 steady-state test.

(2) For each case, determine the fan power from measurements made over a minimum of 5 minutes.

(3) Approximate the electrical energy consumption of the indoor blower if it had operated during the cyclic test using all three power measurements. Assume a linear profile during the ramp intervals. The manufacturer must provide the durations of the ramp-up and ramp-down intervals. If the test setup instructions included with the unit by the manufacturer specifies a ramp interval that exceeds 45 seconds, use a 45-second ramp interval nonetheless when estimating the fan energy.

3.5.2 Procedures When Testing Non-Ducted Indoor Units

Do not use airflow prevention devices when conducting cyclic tests on non-ducted indoor units. Until the last OFF/ON compressor cycle, airflow through the indoor coil must cycle off and on in unison with the compressor. For the last OFF/ON compressor cycle—the one used to determine $e_{cyc,dry}$ and $q_{cyc,dry}$—use the exhaust fan of the airflow measuring apparatus and the indoor blower of the test unit to have indoor airflow start 3 minutes prior to compressor cut-on and end three minutes after compressor cutoff. Subtract the electrical energy used by the indoor blower during the 3 minutes prior to compressor cut-on from the integrated electrical energy, $e_{cyc,dry}$. Add the electrical energy used by the indoor blower during the 3 minutes after compressor cutoff to the integrated cooling capacity, $q_{cyc,dry}$. For the case where the non-ducted indoor unit uses a variable-speed indoor blower which is disabled during the cyclic test, correct $e_{cyc,dry}$ and $q_{cyc,dry}$ using the same approach as prescribed in section 3.5.1 of this appendix for ducted units having a disabled variable-speed indoor blower.

3.5.3 Cooling-Mode Cyclic-Degradation Coefficient Calculation

Use the two dry-coil tests to determine the cooling-mode cyclic-degradation coefficient, C_D^c. Append ''(k = 2)'' to the coefficient if it corresponds to a two-capacity unit cycling at high capacity. The default value for two-capacity units cycling at high capacity, however, is the low-capacity coefficient, *i.e.,* $C_D^c(k = 2) = C_D^c$. Evaluate C_D^c using the above results and those from the section 3.4 dry-coil steady-state test.

$$C_D^c = \frac{1 - \frac{EER_{cyc,dry}}{EER_{ss,dry}}}{1 - CLF}$$

where:

$$EER_{cyc,dry} = \frac{q_{cyc,dry}}{e_{cyc,dry}}$$

the average energy efficiency ratio during the cyclic dry coil cooling mode test, Btu/W·h

$$EER_{ss,dry} = \frac{\dot{Q}_{ss,dry}}{\dot{E}_{ss,dry}}$$

the average energy efficiency ratio during the steady-state dry coil cooling mode test, Btu/W·h

$$CLF = \frac{q_{cyc,dry}}{Q_{ss,dry} * \Delta\tau_{cyc,dry}}$$

the cooling load factor dimensionless

Round the calculated value for C_D^c to the nearest 0.01. If C_D^c is negative, then set it equal to zero.

3.6 Heating Mode Tests for Different Types of Heat Pumps, Including Heating-Only Heat Pumps

3.6.1 Tests for a Heat Pump Having a Single-Speed Compressor and Fixed Heating Air Volume Rate

This set of tests is for single-speed-compressor heat pumps that do not have a heating minimum air volume rate or a heating intermediate air volume rate that is different than the heating full load air volume rate. Conduct the optional high temperature cyclic (H1C) test to determine the heating mode cyclic-degradation coefficient, C_D^h. A default value for C_D^h may be used in lieu of conducting the cyclic test. The default value of C_D^h is 0.25. Test conditions for the four tests are specified in Table 10.

TABLE 10—HEATING MODE TEST CONDITIONS FOR UNITS HAVING A SINGLE-SPEED COMPRESSOR AND A FIXED-SPEED INDOOR BLOWER, A CONSTANT AIR VOLUME RATE INDOOR BLOWER, OR NO INDOOR BLOWER

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Heating air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
H1 Test (required, steady)	70	60 (max)	47	43	Heating Full-load.[1]
H1C Test (optional, cyclic)	70	60 (max)	47	43	([2]).
H2 Test (required)	70	60 (max)	35	33	Heating Full-load.[1]
H3 Test (required, steady)	70	60 (max)	17	15	Heating Full-load.[1]

[1] Defined in section 3.1.4.4 of this appendix.
[2] Maintain the airflow nozzles static pressure difference or velocity pressure during the ON period at the same pressure difference or velocity pressure as measured during the H1 Test.

3.6.2 Tests for a heat pump having a single-speed compressor and a single indoor unit having either (1) a variable speed, variable-air-rate indoor blower whose capacity modulation correlates with outdoor dry bulb temperature or (2) multiple indoor blowers. Conduct five tests: Two high temperature tests ($H1_2$ and $H1_1$), one frost accumulation test ($H2_2$), and two low temperature tests ($H3_2$ and $H3_1$). Conducting an additional frost accumulation test ($H2_1$) is optional. Conduct the optional high temperature cyclic ($H1C_1$) test to determine the heating mode cyclic-degradation coefficient, C_D^h. A default value for C_D^h may be used in lieu of conducting the cyclic. The default value of C_D^h is 0.25. Test conditions for the seven tests are specified in Table 11. If the optional $H2_1$ test is not performed, use the following equations to approximate the capacity and electrical power of the heat pump at the $H2_1$ test conditions:

$$\dot{Q}_h^{k=1}(35) = QR_h^{k=2}(35) * \left\{\dot{Q}_h^{k=1}(17) + 0.6 * \left[\dot{Q}_h^{k=1}(47) - \dot{Q}_h^{k=1}(17)\right]\right\}$$

$$\dot{E}_h^{k=1}(35) = PR_h^{k=2}(35) * \left\{\dot{E}_h^{k=1}(17) + 0.6 * \left[\dot{E}_h^{k=1}(47) - \dot{E}_h^{k=1}(17)\right]\right\}$$

where:

$$\dot{Q}R_h^{k=2}(35) = \frac{\dot{Q}_h^{k=2}(35)}{\dot{Q}^{k=2}(17) + 0.6 * [\dot{Q}_h^{k=2}(47) - \dot{Q}_h^{k=2}(17)]}$$

$$PR_h^{k=2}(35) = \frac{\dot{E}_h^{k=2}(35)}{\dot{E}_h^{k=2}(17) + 0.6 * \left[\dot{E}_h^{k=2}(47) - \dot{E}_h^{k=2}(17)\right]}$$

The quantities $\dot{Q}_h^{k=2}(47)$, $\dot{E}_h^{k=2}(47)$, $\dot{Q}_h^{k=1}(47)$, and $\dot{E}_h^{k=1}(47)$ are determined from the $H1_2$ and $H1_1$ tests and evaluated as specified in section 3.7 of this appendix; the quantities $\dot{Q}_h^{k=2}(35)$ and $\dot{E}_h^{k=2}(35)$ are determined from the $H2_2$ test and evaluated as specified in section 3.9 of this appendix; and the quantities $\dot{Q}_h^{k=2}(17)$, $\dot{E}_h^{k=2}(17)$, $\dot{Q}_h^{k=1}(17)$, and $\dot{E}_h^{k=1}(17)$, are determined from the $H3_2$ and $H3_1$ tests and evaluated as specified in section 3.10 of this appendix.

TABLE 11—HEATING MODE TEST CONDITIONS FOR UNITS WITH A SINGLE-SPEED COMPRESSOR THAT MEET THE SECTION 3.6.2 INDOOR UNIT REQUIREMENTS

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Heating air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
$H1_2$ Test (required, steady)	70	60 (max)	47	43	Heating Full-load.[1]
$H1_1$ Test (required, steady)	70	60 (max)	47	43	Heating Minimum.[2]
$H1C_1$ Test (optional, cyclic)	70	60 (max)	47	43	([3])
$H2_2$ Test (required)	70	60 (max)	35	33	Heating Full-load.[1]
$H2_1$ Test (optional)	70	60 (max)	35	33	Heating Minimum.[2]
$H3_2$ Test (required, steady)	70	60 (max)	17	15	Heating Full-load.[1]

TABLE 11—HEATING MODE TEST CONDITIONS FOR UNITS WITH A SINGLE-SPEED COMPRESSOR THAT MEET THE SECTION 3.6.2 INDOOR UNIT REQUIREMENTS—Continued

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Heating air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
$H3_1$ Test (required, steady)	70	60 (max)	17	15	Heating Minimum.[2]

[1] Defined in section 3.1.4.4 of this appendix.
[2] Defined in section 3.1.4.5 of this appendix.
[3] Maintain the airflow nozzles static pressure difference or velocity pressure during the ON period at the same pressure difference or velocity pressure as measured during the $H1_1$ test.

3.6.3 Tests for a Heat Pump Having a Two-Capacity Compressor (see Section 1.2 of This Appendix, Definitions), Including Two-Capacity, Northern Heat Pumps (see Section 1.2 of This Appendix, Definitions)

a. Conduct one maximum temperature test ($H0_1$), two high temperature tests ($H1_2$ and $H1_1$), one frost accumulation test ($H2_2$), and one low temperature test ($H3_2$). Conduct an additional frost accumulation test ($H2_1$) and low temperature test ($H3_1$) if both of the following conditions exist:

(1) Knowledge of the heat pump's capacity and electrical power at low compressor capacity for outdoor temperatures of 37 °F and less is needed to complete the section 4.2.3 of this appendix seasonal performance calculations; and

(2) The heat pump's controls allow low-capacity operation at outdoor temperatures of 37 °F and less.

If the above two conditions are met, an alternative to conducting the $H2_1$ frost accumulation is to use the following equations to approximate the capacity and electrical power:

$$\dot{Q}_h^{k=1}(35) = 0.90 * \left\{\dot{Q}_h^{k=1}(17) + 0.6 * \left[\dot{Q}_h^{k=1}(47) - \dot{Q}_h^{k=1}(17)\right]\right\}$$

$$\dot{E}_h^{k=1}(35) = 0.985 * \left\{\dot{E}_h^{k=1}(17) + 0.6 * \left[\dot{E}_h^{k=1}(47) - \dot{E}_h^{k=1}(17)\right]\right\}$$

Determine the quantities $\dot{Q}_h^{k=1}$ (47) and $\dot{E}_h^{k=1}$ (47) from the $H1_1$ test and evaluate them according to section 3.7 of this appendix. Determine the quantities $\dot{Q}_h^{k=1}$ (17) and $\dot{E}_h^{k=1}$ (17) from the $H3_1$ test and evaluate them according to section 3.10 of this appendix.

b. Conduct the optional high temperature cyclic test ($H1C_1$) to determine the heating mode cyclic-degradation coefficient, C_D^h. A default value for C_D^h may be used in lieu of conducting the cyclic. The default value of C_D^h is 0.25. If a two-capacity heat pump locks out low capacity operation at lower outdoor temperatures, conduct the high temperature cyclic test ($H1C_2$) to determine the high-capacity heating mode cyclic-degradation coefficient, C_D^h (k=2). The default C_D^h (k=2) is the same value as determined or assigned for the low-capacity cyclic-degradation coefficient, C_D^h [or equivalently, C_D^h (k=1)]. Table 12 specifies test conditions for these nine tests.

TABLE 12—HEATING MODE TEST CONDITIONS FOR UNITS HAVING A TWO-CAPACITY COMPRESSOR

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Compressor capacity	Heating air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb		
$H0_1$ Test (required, steady).	70	60(max)	62	56.5	Low	Heating Minimum.[1]
$H1_2$ Test (required, steady).	70	60(max)	47	43	High	Heating Full-Load.[2]
$H1C_2$ Test (optional,[7] cyclic).	70	60(max)	47	43	High	([3])
$H1_1$ Test (required)	70	60(max)	47	43	Low	Heating Minimum.[1]
$H1C_1$ Test (optional, cyclic).	70	60(max)	47	43	Low	([4])
$H2_2$ Test (required)	70	60(max)	35	33	High	Heating Full-Load.[2]
$H2_1$ Test[5 6] (required)	70	60(max)	35	33	Low	Heating Minimum.[1]
$H3_2$ Test (required, steady).	70	60(max)	17	15	High	Heating Full-Load.[2]
$H3_1$ Test[5] (required, steady).	70	60(max)	17	15	Low	Heating Minimum.[1]

[1] Defined in section 3.1.4.5 of this appendix.
[2] Defined in section 3.1.4.4 of this appendix.
[3] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during the ON period at the same pressure or velocity as measured during the $H1_2$ test.
[4] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during the ON period at the same pressure or velocity as measured during the $H1_1$ test.

[5] Required only if the heat pump's performance when operating at low compressor capacity and outdoor temperatures less than 37 °F is needed to complete the section 4.2.3 *HSPF* calculations.
[6] If table note #5 applies, the section 3.6.3 equations for $\dot{Q}_h^{k=1}$ (35) and $\dot{E}_h^{k=1}$ (17) may be used in lieu of conducting the $H2_1$ test.
[7] Required only if the heat pump locks out low capacity operation at lower outdoor temperatures.

3.6.4 Tests for a Heat Pump Having a Variable-Speed Compressor

a. Conduct one maximum temperature test ($H0_1$), two high temperature tests ($H1_2$ and $H1_1$), one frost accumulation test ($H2_V$), and one low temperature test ($H3_2$). Conducting one or both of the following tests is optional: An additional high temperature test ($H1_N$) and an additional frost accumulation test ($H2_2$). Conduct the optional maximum temperature cyclic ($H0C_1$) test to determine the heating mode cyclic-degradation coefficient, C_D^h. A default value for C_D^h may be used in lieu of conducting the cyclic. The default value of C_D^h is 0.25. Test conditions for the eight tests are specified in Table 13. The compressor shall operate at the same heating full speed, measured by RPM or power input frequency (Hz), for the $H1_2$, $H2_2$, and $H3_2$ tests. The compressor shall operate at the same heating minimum speed, measured by RPM or power input frequency (Hz), for the $H0_1$, $H0C_1$, and $H1_1$ tests. Determine the heating intermediate compressor speed cited in Table 13 using the heating mode full and minimum compressors speeds and:

Heating intermediate speed

$$= \text{Heating minimum speed} + \frac{\text{Heating full speed} - \text{Heating minimum speed}}{3}$$

Where a tolerance of plus 5 percent or the next higher inverter frequency step from that calculated is allowed.

If the $H2_2$ test is not done, use the following equations to approximate the capacity and electrical power at the $H2_2$ test conditions:

$$\dot{Q}_h^{k=2}(35) = 0.90 * \left\{\dot{Q}_h^{k=2}(17) + 0.6 * \left[\dot{Q}_h^{k=2}(47) - \dot{Q}_h^{k=2}(17)\right]\right\}$$

$$\dot{E}_h^{k=2}(35) = 0.985 * \left\{\dot{E}_h^{k=2}(17) + 0.6 * \left[\dot{E}_h^{k=2}(47) - \dot{E}_h^{k=2}(17)\right]\right\}$$

b. Determine the quantities $\dot{Q}_h^{k=2}(47)$ and from $\dot{E}_h^{k=2}(47)$ from the $H1_2$ test and evaluate them according to section 3.7 of this appendix. Determine the quantities $\dot{Q}_h^{k=2}(17)$ and $\dot{E}_h^{k=2}(17)$ from the $H3_2$ test and evaluate them according to section 3.10 of this appendix. For heat pumps where the heating mode full compressor speed exceeds its cooling mode full compressor speed, conduct the $H1_N$ test if the manufacturer requests it. If the $H1_N$ test is done, operate the heat pump's compressor at the same speed as the speed used for the cooling mode A_2 test. Refer to the last sentence of section 4.2 of this appendix to see how the results of the $H1_N$ test may be used in calculating the heating seasonal performance factor.

TABLE 13—HEATING MODE TEST CONDITIONS FOR UNITS HAVING A VARIABLE-SPEED COMPRESSOR

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Compressor speed	Heating air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb		
$H0_1$ test (required, steady)	70	60(max)	62	56.5	Heating Minimum	Heating Minimum.[1]
$H0C_1$ test (optional, cyclic)	70	60(max)	62	56.5	Heating Minimum	([2])
$H1_2$ test (required, steady)	70	60(max)	47	43	Heating Full	Heating Full-Load.[3]
$H1_1$ test (required, steady)	70	60(max)	47	43	Heating Minimum	Heating Minimum.[1]
$H1_N$ test (optional, steady)	70	60(max)	47	43	Cooling Full	Heating Nominal.[4]
$H2_2$ test (optional)	70	60(max)	35	33	Heating Full	Heating Full-Load.[3]
$H2_V$ test (required)	70	60(max)	35	33	Heating Intermediate	Heating Intermediate.[5]
$H3_2$ test (required, steady)	70	60(max)	17	15	Heating Full	Heating Full-Load.[3]

[1] Defined in section 3.1.4.5 of this appendix.
[2] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during an ON period at the same pressure or velocity as measured during the $H0_1$ test.
[3] Defined in section 3.1.4.4 of this appendix.
[4] Defined in section 3.1.4.7 of this appendix.
[5] Defined in section 3.1.4.6 of this appendix.

c. For multiple-split heat pumps (only), the following procedures supersede the above requirements. For all Table 13 tests specified for a minimum compressor speed, at least one indoor unit must be turned off. The manufacturer shall designate the particular indoor unit(s) that is turned off. The manufacturer must also specify the compressor speed used for the Table 13 $H2_V$ test, a heating mode intermediate compressor speed that falls

within ¼ and ¾ of the difference between the full and minimum heating mode speeds. The manufacturer should prescribe an intermediate speed that is expected to yield the highest COP for the given $H2_V$ test conditions and bracketed compressor speed range. The manufacturer can designate that one or more specific indoor units are turned off for the $H2_V$ test.

3.6.5 Additional Test for a Heat Pump Having a Heat Comfort Controller

Test any heat pump that has a heat comfort controller (see section 1.2 of this appendix, Definitions) according to section 3.6.1, 3.6.2, or 3.6.3, whichever applies, with the heat comfort controller disabled. Additionally, conduct the abbreviated test described in section 3.1.10 of this appendix with the heat comfort controller active to determine the system's maximum supply air temperature. (Note: Heat pumps having a variable speed compressor and a heat comfort controller are not covered in the test procedure at this time.)

3.6.6 Heating Mode Tests for Northern Heat Pumps With Triple-Capacity Compressors

Test triple-capacity, northern heat pumps for the heating mode as follows:

a. Conduct one maximum-temperature test ($H0_1$), two high-temperature tests ($H1_2$ and $H1_1$), one frost accumulation test ($H2_2$), two low-temperature tests ($H3_2$, $H3_3$), and one minimum-temperature test ($H4_3$). Conduct an additional frost accumulation test ($H2_1$) and low-temperature test ($H3_1$) if both of the following conditions exist: (1) Knowledge of the heat pump's capacity and electrical power at low compressor capacity for outdoor temperatures of 37 °F and less is needed to complete the section 4.2.6 seasonal performance calculations; and (2) the heat pump's controls allow low-capacity operation at outdoor temperatures of 37 °F and less. If the above two conditions are met, an alternative to conducting the $H2_1$ frost accumulation test to determine $\dot{Q}_h^{k=1}(35)$ and $\dot{E}_h^{k=1}(35)$ is to use the following equations to approximate this capacity and electrical power:

$$\dot{Q}_h^{k=1}(35) = 0.90 * \left\{\dot{Q}_h^{k=1}(17) + 0.6 * \left[\dot{Q}_h^{k=1}(47) - \dot{Q}_h^{k=1}(17)\right]\right\}$$

$$\dot{E}_h^{k=1}(35) = 0.985 * \left\{\dot{E}_h^{k=1}(17) + 0.6 * \left[\dot{E}_h^{k=1}(47) - \dot{E}_h^{k=1}(17)\right]\right\}$$

In evaluating the above equations, determine the quantities $\dot{Q}_h^{k=1}(47)$ from the $H1_1$ test and evaluate them according to section 3.7 of this appendix. Determine the quantities $\dot{Q}_h^{k=1}(17)$ and $\dot{E}_h^{k=1}(17)$ from the $H3_1$ test and evaluate them according to section 3.10 of this appendix. Use the paired values of $\dot{Q}_h^{k=1}(35)$ and $\dot{E}_h^{k=1}(35)$ derived from conducting the $H2_1$ frost accumulation test and evaluated as specified in section 3.9.1 of this appendix or use the paired values calculated using the above default equations, whichever contribute to a higher Region IV HSPF based on the DHRmin.

b. Conducting a frost accumulation test ($H2_3$) with the heat pump operating at its booster capacity is optional. If this optional test is not conducted, determine $\dot{Q}_h^{k=3}(35)$ and $\dot{E}_h^{k=3}(35)$ using the following equations to approximate this capacity and electrical power:

$$\dot{Q}_h^{k=3}(35) = QR_h^{k=2}(35) * \left\{\dot{Q}_h^{k=3}(17) + 1.20 * \left[\dot{Q}_h^{k=3}(17) - \dot{Q}_h^{k=3}(2)\right]\right\}$$

$$\dot{E}_h^{k=3}(35) = PR_h^{k=2}(35) * \left\{\dot{E}_h^{k=3}(17) + 1.20 * \left[\dot{E}_h^{k=3}(17) - \dot{E}_h^{k=3}(2)\right]\right\}$$

Where:

$$QR_h^{k=2}(35) = \frac{\dot{Q}_h^{k=2}(35)}{\dot{Q}_h^{k=2}(17) + 0.6 * \left[\dot{Q}_h^{k=2}(47) - \dot{Q}_h^{k=2}(17)\right]}$$

$$PR_h^{k=2}(35) = \frac{\dot{E}_h^{k=2}(35)}{\dot{E}_h^{k=2}(17) + 0.6 * \left[\dot{E}_h^{k=2}(47) - \dot{E}_h^{k=2}(17)\right]}$$

Determine the quantities $\dot{Q}_h^{k=2}(47)$ and $\dot{E}_h^{k=2}(47)$ from the $H1_2$ test and evaluate them according to section 3.7 of this appendix. Determine the quantities $\dot{Q}_h^{k=2}(35)$ and $\dot{E}_h^{k=2}(35)$ from the $H2_2$ test and evaluate them according to section 3.9.1 of this appendix. Determine the quantities $\dot{Q}_h^{k=2}(17)$ and $\dot{E}_h^{k=2}(17)$ from the $H3_2$ test, determine the quantities $\dot{Q}_h^{k=3}(17)$ and $\dot{E}_h^{k=3}(17)$ from the $H3_3$ test, and determine the quantities $\dot{Q}_h^{k=3}(2)$ and $\dot{E}_h^{k=3}(2)$ from the $H4_3$ test. Evaluate all six quantities according to section 3.10 of this appendix. Use the paired values of $\dot{Q}_h^{k=3}(35)$ and $\dot{E}_h^{k=3}(35)$ derived from conducting the $H2_3$ frost accumulation test and calculated as specified in section 3.9.1 of this appendix or use the paired values calculated using the above default equations, whichever contribute

to a higher Region IV HSPF based on the DHRmin.

c. Conduct the optional high-temperature cyclic test ($H1C_1$) to determine the heating mode cyclic-degradation coefficient, C_D^h. A default value for C_D^h may be used in lieu of conducting the cyclic. The default value of C_D^h is 0.25. If a triple-capacity heat pump locks out low capacity operation at lower outdoor temperatures, conduct the high-temperature cyclic test ($H1C_2$) to determine the high-capacity heating mode cyclic-degradation coefficient, C_D^h (k = 2). The default C_D^h (k = 2) is the same value as determined or assigned for the low-capacity cyclic-degradation coefficient, C_D^h [or equivalently, C_D^h (k = 1)]. Finally, if a triple-capacity heat pump locks out both low and high capacity operation at the lowest outdoor temperatures, conduct the low-temperature cyclic test ($H3C_3$) to determine the booster-capacity heating mode cyclic-degradation coefficient, C_D^h (k = 3). The default C_D^h (k = 3) is the same value as determined or assigned for the high-capacity cyclic-degradation coefficient, C_D^h [or equivalently, C_D^h (k = 2)]. Table 14 specifies test conditions for all 13 tests.

TABLE 14—HEATING MODE TEST CONDITIONS FOR UNITS WITH A TRIPLE-CAPACITY COMPRESSOR

Test description	Air entering indoor unit temperature (°F)		Air entering outdoor unit temperature (°F)		Compressor capacity	Heating air volume rate
	Dry bulb	Wet bulb	Dry bulb	Wet bulb		
$H0_1$ Test (required, steady).	70	$60^{(max)}$	62	56.5	Low	Heating Minimum.[1]
$H1_2$ Test (required, steady).	70	$60^{(max)}$	47	43	High	Heating Full-Load.[2]
$H1C_2$ Test (optional[8], cyclic).	70	$60^{(max)}$	47	43	High	([3])
$H1_1$ Test (required)	70	$60^{(max)}$	47	43	Low	Heating Minimum.[1]
$H1C_1$ Test (optional, cyclic).	70	$60^{(max)}$	47	43	Low	([4])
$H2_3$ Test (optional, steady).	70	$60^{(max)}$	35	33	Booster	Heating Full-Load.[2]
$H2_2$ Test (required)	70	$60^{(max)}$	35	33	High	Heating Full-Load.[2]
$H2_1$ Test (required)	70	$60^{(max)}$	35	33	Low	Heating Minimum.[1]
$H3_3$ Test (required, steady).	70	$60^{(max)}$	17	15	Booster	Heating Full-Load.[2]
$H3C_3$ Test[5 6] (optional, cyclic).	70	$60^{(max)}$	17	15	Booster	([7])
$H3_2$ Test (required, steady).	70	$60^{(max)}$	17	15	High	Heating Full-Load.[2]
$H3_1$ Test[5] (required, steady).	70	$60^{(max)}$	17	15	Low	Heating Minimum.[1]
$H4_3$ Test (required, steady).	70	$60^{(max)}$	2	1	Booster	Heating Full-Load.[2]

[1] Defined in section 3.1.4.5 of this appendix.
[2] Defined in section 3.1.4.4 of this appendix.
[3] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during the ON period at the same pressure or velocity as measured during the $H1_2$ test.
[4] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during the ON period at the same pressure or velocity as measured during the $H1_1$ test.
[5] Required only if the heat pump's performance when operating at low compressor capacity and outdoor temperatures less than 37 °F is needed to complete the section 4.2.6 HSPF calculations.
[6] If table note [5] applies, the section 3.6.6 equations for $\dot{Q}_h^{k=1}(35)$ and $\dot{E}_h^{k=1}(17)$ may be used in lieu of conducting the $H2_1$ test.
[7] Maintain the airflow nozzle(s) static pressure difference or velocity pressure during the ON period at the same pressure or velocity as measured during the $H3_3$ test.
[8] Required only if the heat pump locks out low capacity operation at lower outdoor temperatures.

3.6.7 Tests for a Heat Pump Having a Single Indoor Unit Having Multiple Indoor Blowers and Offering Two Stages of Compressor Modulation

Conduct the heating mode tests specified in section 3.6.3 of this appendix.

3.7 Test Procedures for Steady-State Maximum Temperature and High Temperature Heating Mode Tests (the $H0_1$, H1, $H1_2$, $H1_1$, and $H1_N$ Tests)

a. For the pretest interval, operate the test room reconditioning apparatus and the heat pump until equilibrium conditions are maintained for at least 30 minutes at the specified section 3.6 test conditions. Use the exhaust fan of the airflow measuring apparatus and, if installed, the indoor blower of the heat pump to obtain and then maintain the indoor air volume rate and/or the external static pressure specified for the particular test. Continuously record the dry-bulb temperature of the air entering the indoor coil, and the dry-bulb temperature and water vapor content of the air entering the outdoor coil. Refer to section 3.11 of this appendix for additional requirements that depend on the selected secondary test method. After satisfying the pretest equilibrium requirements, make the measurements specified in Table 3 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3) for the indoor air enthalpy method and the user-selected secondary method. Make said Table 3 measurements at equal intervals that span 5 minutes or less. Continue data sampling until a 30-minute period (*e.g.,* seven consecutive 5-minute samples) is reached where the test tolerances specified in Table 15 are satisfied. For those continuously recorded parameters, use the entire data set for the 30-minute interval when evaluating Table 15 compliance. Determine the average electrical power consumption of

the heat pump over the same 30-minute interval.

TABLE 15—TEST OPERATING AND TEST CONDITION TOLERANCES FOR SECTION 3.7 AND SECTION 3.10 STEADY-STATE HEATING MODE TESTS

	Test operating tolerance [1]	Test condition tolerance [1]
Indoor dry-bulb, °F:		
Entering temperature	2.0	0.5
Leaving temperature	2.0	
Indoor wet-bulb, °F:		
Entering temperature	1.0	
Leaving temperature	1.0	
Outdoor dry-bulb, °F:		
Entering temperature	2.0	0.5
Leaving temperature	[2] 2.0	
Outdoor wet-bulb, °F:		
Entering temperature	1.0	0.3
Leaving temperature	[2] 1.0	
External resistance to airflow, inches of water	0.12	[3] 0.02
Electrical voltage, % of rdg	2.0	1.5
Nozzle pressure drop, % of rdg	8.0	

[1] See section 1.2 of this appendix, Definitions.
[2] Only applies when the Outdoor Air Enthalpy Method is used.
[3] Only applies when testing non-ducted units.

b. Calculate indoor-side total heating capacity as specified in sections 7.3.4.1 and 7.3.4.3 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3). To calculate capacity, use the averages of the measurements (*e.g.* inlet and outlet dry bulb temperatures measured at the psychrometers) that are continuously recorded for the same 30-minute interval used as described above to evaluate compliance with test tolerances. Do not adjust the parameters used in calculating capacity for the permitted variations in test conditions. Assign the average space heating capacity and electrical power over the 30-minute data collection interval to the variables $\dot{Q}_h^k$ and $\dot{E}_h^k(T)$ respectively. The ''T'' and superscripted ''k'' are the same as described in section 3.3 of this appendix. Additionally, for the heating mode, use the superscript to denote results from the optional $H1_N$ test, if conducted.

c. For coil-only system heat pumps, increase $\dot{Q}_h^k(T)$ by

$$\frac{1250\ BTU/h}{1000\ scfm} * \bar{\dot{V}}_s$$

and increase $\dot{E}_h^k(T)$ by,

$$\frac{365\ W}{1000\ scfm} * \bar{\dot{V}}_s$$

where $\bar{\dot{V}}_s$ is the average measured indoor air volume rate expressed in units of cubic feet per minute of standard air (scfm). During the 30-minute data collection interval of a high temperature test, pay attention to preventing a defrost cycle. Prior to this time, allow the heat pump to perform a defrost cycle if automatically initiated by its own controls. As in all cases, wait for the heat pump's defrost controls to automatically terminate the defrost cycle. Heat pumps that undergo a defrost should operate in the heating mode for at least 10 minutes after defrost termination prior to beginning the 30-minute data collection interval. For some heat pumps, frost may accumulate on the outdoor coil during a high temperature test. If the indoor coil leaving air temperature or the difference between the leaving and entering air temperatures decreases by more than 1.5 °F over the 30-minute data collection interval, then do not use the collected data to determine capacity. Instead, initiate a defrost cycle. Begin collecting data no sooner than 10 minutes after defrost termination. Collect 30 minutes of new data during which the Table 15 test tolerances are satisfied. In this case, use only the results from the second 30-minute data collection interval to evaluate $\dot{Q}_h^k(47)$ and $\dot{E}_h^k(47)$.

d. If conducting the cyclic heating mode test, which is described in section 3.8 of this appendix, record the average indoor-side air volume rate, $\bar{\dot{V}}$, specific heat of the air, $C_{p,a}$ (expressed on dry air basis), specific volume of the air at the nozzles, v_n' (or v_n), humidity ratio at the nozzles, W_n, and either pressure difference or velocity pressure for the flow nozzles. If either or both of the below criteria apply, determine the average, steady-state, electrical power consumption of the indoor blower motor ($\dot{E}_{fan,1}$):

(1) The section 3.8 cyclic test will be conducted and the heat pump has a variable-speed indoor blower that is expected to be disabled during the cyclic test; or

(2) The heat pump has a (variable-speed) constant-air volume-rate indoor blower and during the steady-state test the average external static pressure (ΔP_1) exceeds the applicable section 3.1.4.4 minimum (or targeted) external static pressure (ΔP_{min}) by 0.03 inches of water or more.

Determine $\dot{E}_{fan,1}$ by making measurements during the 30-minute data collection interval, or immediately following the test and prior to changing the test conditions. When the above ''2'' criteria applies, conduct the following four steps after determining $\dot{E}_{fan,1}$ (which corresponds to ΔP_1):

(i) While maintaining the same test conditions, adjust the exhaust fan of the airflow measuring apparatus until the external static pressure increases to approximately $\Delta P_1 + (\Delta P_1 - \Delta P_{min})$.

(ii) After re-establishing steady readings for fan motor power and external static pressure, determine average values for the indoor blower power ($\dot{E}_{fan,2}$) and the external static pressure (ΔP_2) by making measurements over a 5-minute interval.

(iii) Approximate the average power consumption of the indoor blower motor if the 30-minute test had been conducted at ΔP_{min} using linear extrapolation:

$$\dot{E}_{fan,\min} = \frac{\dot{E}_{fan,2} - \dot{E}_{fan,1}}{\Delta P_2 - \Delta P_1}(\Delta P_{\min} - \Delta P_1) + \dot{E}_{fan,1}$$

(iv) Decrease the total space heating capacity, $\dot{Q}_h^k(T)$, by the quantity ($\dot{E}_{fan,1} - \dot{E}_{fan,min}$), when expressed on a Btu/h basis. Decrease the total electrical power, $\dot{E}_h^k(T)$ by the same fan power difference, now expressed in watts.

e. If the temperature sensors used to provide the primary measurement of the indoor-side dry bulb temperature difference during the steady-state dry-coil test and the subsequent cyclic dry-coil test are different, include measurements of the latter sensors among the regularly sampled data. Beginning at the start of the 30-minute data collection period, measure and compute the indoor-side air dry-bulb temperature difference using both sets of instrumentation, ΔT (Set SS) and ΔT (Set CYC), for each equally spaced data sample. If using a consistent data sampling rate that is less than 1 minute, calculate and record minutely averages for the two temperature differences. If using a consistent sampling rate of one minute or more, calculate and record the two temperature differences from each data sample. After having recorded the seventh (i = 7) set of temperature differences, calculate the following ratio using the first seven sets of values:

$$F_{CD} = \frac{1}{7}\sum_{i-6}^{i}\frac{\Delta T(Set\ SS)}{\Delta T(Set\ CYC)}$$

Each time a subsequent set of temperature differences is recorded (if sampling more frequently than every 5 minutes), calculate F_{CD} using the most recent seven sets of values. Continue these calculations until the 30-minute period is completed or until a value for F_{CD} is calculated that falls outside the allowable range of 0.94–1.06. If the latter occurs, immediately suspend the test and identify the cause for the disparity in the two temperature difference measurements. Recalibration of one or both sets of instrumentation may be required. If all the values for F_{CD} are within the allowable range, save the final value of the ratio from the 30-minute test as F_{CD}*. If the temperature sensors used to provide the primary measurement of the indoor-side dry bulb temperature difference during the steady-state dry-coil test and the subsequent cyclic dry-coil test are the same, set F_{CD}* = 1.

3.8 Test Procedures for the Cyclic Heating Mode Tests (the $H0C_1$, H1C, $H1C_1$ and $H1C_2$ Tests)

a. Except as noted below, conduct the cyclic heating mode test as specified in section 3.5 of this appendix. As adapted to the heating mode, replace section 3.5 references to ''the steady-state dry coil test'' with ''the heating mode steady-state test conducted at the same test conditions as the cyclic heating mode test.'' Use the test tolerances in Table 16 rather than Table 9. Record the outdoor coil entering wet-bulb temperature according to the requirements given in section 3.5 of this appendix for the outdoor coil entering dry-bulb temperature. Drop the subscript ''dry'' used in variables cited in section 3.5 of this appendix when referring to quantities from the cyclic heating mode test. The default C_D value for heating is 0.25. If available, use electric resistance heaters (see section 2.1 of this appendix) to minimize the variation in the inlet air temperature. Determine the total space heating delivered during the cyclic heating test, q_{cyc}, as specified in section 3.5 of this appendix except for making the following changes:

(1) When evaluating Equation 3.5–1, use the values of $\bar{V}$, $C_{p,a}$,v_n', (or v_n), and W_n that were recorded during the section 3.7 steady-state test conducted at the same test conditions.

$$\text{(2) Calculate } \Gamma \text{ using, } \Gamma = F_{CD}^{*}\int_{\tau_1}^{\tau_2}[T_{a1}(\tau) - T_{a2}(\tau)]\delta\tau,\ \ hr \times {}^{\circ}F,$$

where F_{CD}* is the value recorded during the section 3.7 steady-state test conducted at the same test condition.

b. For ducted coil-only system heat pumps (excluding the special case where a variable-speed fan is temporarily removed), increase q_{cyc} by the amount calculated using Equation 3.5–3. Additionally, increase e_{cyc} by the amount calculated using Equation 3.5–2. In making these calculations, use the average indoor air volume rate ($\bar{V}_s$) determined from the section 3.7 steady-state heating mode test conducted at the same test conditions.

c. For non-ducted heat pumps, subtract the electrical energy used by the indoor blower during the 3 minutes after compressor cutoff from the non-ducted heat pump's integrated heating capacity, $q_{cyc.}$

d. If a heat pump defrost cycle is manually or automatically initiated immediately prior to or during the OFF/ON cycling, operate the heat pump continuously until 10 minutes after defrost termination. After that, begin cycling the heat pump immediately or delay until the specified test conditions have been re-established. Pay attention to preventing defrosts after beginning the cycling process. For heat pumps that cycle off the indoor blower during a defrost cycle, make no effort here to restrict the air movement through the indoor coil while the fan is off. Resume the OFF/ON cycling while conducting a minimum of two complete compressor OFF/ON cycles before determining q_{cyc} and $e_{cyc.}$

3.8.1 Heating Mode Cyclic-Degradation Coefficient Calculation

Use the results from the required cyclic test and the required steady-state test that were conducted at the same test conditions to determine the heating mode cyclic-degradation coefficient C_D^h. Add ''(k = 2)'' to the coefficient if it corresponds to a two-capacity unit cycling at high capacity. For the below calculation of the heating mode cyclic degradation coefficient, do not include the duct loss correction from section 7.3.3.3 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3) in determining $\dot{Q}_h^k(T_{cyc})$ (or q_{cyc}). The default value for two-capacity units cycling at high capacity, however, is the low-capacity coefficient, *i.e.,* C_D^h (k = 2) = C_D^h. The tested C_D^h is calculated as follows:

$$C_D^h = \frac{1 - \frac{COP_{cyc}}{COP_{ss}(T_{cyc})}}{1 - HLF}$$

where:

$$COP_{cyc} = \frac{q_{cyc}}{3.413 \frac{Btu/h}{W} * e_{cyc}}$$

the average coefficient of performance during the cyclic heating mode test, dimensionless.

$$COP_{ss}(T_{cyc}) = \frac{\dot{Q}_h^k(T_{cyc})}{3.413 \frac{Btu/h}{W} * \dot{E}_h^k(T_{cyc})}$$

the average coefficient of performance during the steady-state heating mode test conducted at the same test conditions—*i.e.,* same outdoor dry bulb temperature, T_{cyc}, and speed/capacity, k, if applicable—as specified for the cyclic heating mode test, dimensionless.

$$HLF = \frac{q_{cyc}}{\dot{Q}_h^k(T_{cyc}) * \Delta\tau_{cyc}}$$

the heating load factor, dimensionless.

T_{cyc} = the nominal outdoor temperature at which the cyclic heating mode test is conducted, 62 or 47 °F.

$\Delta\tau_{cyc}$ = the duration of the OFF/ON intervals; 0.5 hours when testing a heat pump having a single-speed or two-capacity compressor and 1.0 hour when testing a heat pump having a variable-speed compressor.

Round the calculated value for C_D^h to the nearest 0.01. If C_D^h is negative, then set it equal to zero.

TABLE 16—TEST OPERATING AND TEST CONDITION TOLERANCES FOR CYCLIC HEATING MODE TESTS

	Test operating tolerance [1]	Test condition tolerance [1]
Indoor entering dry-bulb temperature,[2] °F	2.0	0.5
Indoor entering wet-bulb temperature,[2] °F	1.0	
Outdoor entering dry-bulb temperature,[2] °F	2.0	0.5
Outdoor entering wet-bulb temperature,[2] °F	2.0	1.0
External resistance to air-flow,[2] inches of water	0.12	
Airflow nozzle pressure difference or velocity pressure,[2]% of reading	2.0	[3] 2.0
Electrical voltage,[4]% of rdg	8.0	1.5

[1] See section 1.2 of this appendix, Definitions.
[2] Applies during the interval that air flows through the indoor (outdoor) coil except for the first 30 seconds after flow initiation. For units having a variable-speed indoor blower that ramps, the tolerances listed for the external resistance to airflow shall apply from 30 seconds after achieving full speed until ramp down begins.
[3] The test condition shall be the average nozzle pressure difference or velocity pressure measured during the steady-state test conducted at the same test conditions.
[4] Applies during the interval that at least one of the following—the compressor, the outdoor fan, or, if applicable, the indoor blower—are operating, except for the first 30 seconds after compressor start-up.

3.9 Test Procedures for Frost Accumulation Heating Mode Tests (the H2, $H2_2$, $H2_V$, and $H2_1$ Tests)

a. Confirm that the defrost controls of the heat pump are set as specified in section 2.2.1 of this appendix. Operate the test room reconditioning apparatus and the heat pump for at least 30 minutes at the specified section 3.6 test conditions before starting the ''preliminary'' test period. The preliminary test period must immediately precede the ''official'' test period, which is the heating and defrost interval over which data are collected for evaluating average space heating capacity and average electrical power consumption.

b. For heat pumps containing defrost controls which are likely to cause defrosts at intervals less than one hour, the preliminary test period starts at the termination of an automatic defrost cycle and ends at the termination of the next occurring automatic defrost cycle. For heat pumps containing defrost controls which are likely to cause defrosts at intervals exceeding one hour, the preliminary test period must consist of a heating interval lasting at least one hour followed by a defrost cycle that is either manually or automatically initiated. In all cases, the heat pump's own controls must govern when a defrost cycle terminates.

c. The official test period begins when the preliminary test period ends, at defrost termination. The official test period ends at the termination of the

next occurring automatic defrost cycle. When testing a heat pump that uses a time-adaptive defrost control system (see section 1.2 of this appendix, Definitions), however, manually initiate the defrost cycle that ends the official test period at the instant indicated by instructions provided by the manufacturer. If the heat pump has not undergone a defrost after 6 hours, immediately conclude the test and use the results from the full 6-hour period to calculate the average space heating capacity and average electrical power consumption.

For heat pumps that turn the indoor blower off during the defrost cycle, take steps to cease forced airflow through the indoor coil and block the outlet duct whenever the heat pump's controls cycle off the indoor blower. If it is installed, use the outlet damper box described in section 2.5.4.1 of this appendix to affect the blocked outlet duct.

d. Defrost termination occurs when the controls of the heat pump actuate the first change in converting from defrost operation to normal heating operation. Defrost initiation occurs when the controls of the heat pump first alter its normal heating operation in order to eliminate possible accumulations of frost on the outdoor coil.

e. To constitute a valid frost accumulation test, satisfy the test tolerances specified in Table 17 during both the preliminary and official test periods. As noted in Table 17, test operating tolerances are specified for two sub-intervals: (1) When heating, except for the first 10 minutes after the termination of a defrost cycle (sub-interval H, as described in Table 17) and (2) when defrosting, plus these same first 10 minutes after defrost termination (sub-interval D, as described in Table 17). Evaluate compliance with Table 17 test condition tolerances and the majority of the test operating tolerances using the averages from measurements recorded only during sub-interval H. Continuously record the dry bulb temperature of the air entering the indoor coil, and the dry bulb temperature and water vapor content of the air entering the outdoor coil. Sample the remaining parameters listed in Table 17 at equal intervals that span 5 minutes or less.

f. For the official test period, collect and use the following data to calculate average space heating capacity and electrical power. During heating and defrosting intervals when the controls of the heat pump have the indoor blower on, continuously record the dry-bulb temperature of the air entering (as noted above) and leaving the indoor coil. If using a thermopile, continuously record the difference between the leaving and entering dry-bulb temperatures during the interval(s) that air flows through the indoor coil. For coil-only system heat pumps, determine the corresponding cumulative time (in hours) of indoor coil airflow, $\Delta\tau_{a.}$ Sample measurements used in calculating the air volume rate (refer to sections 7.7.2.1 and 7.7.2.2 of ANSI/ASHRAE 37–2009) at equal intervals that span 10 minutes or less. (Note: In the first printing of ANSI/ASHRAE 37–2009, the second IP equation for Q_{mi} should read:) Record the electrical energy consumed, expressed in watt-hours, from defrost termination to defrost termination, $e_{DEF}{}^{k}(35)$, as well as the corresponding elapsed time in hours, $\Delta\tau_{FR.}$

TABLE 17—TEST OPERATING AND TEST CONDITION TOLERANCES FOR FROST ACCUMULATION HEATING MODE TESTS

	Test operating tolerance [1]		Test condition tolerance [1]
	Sub-interval H [2]	Sub-interval D [3]	Sub-interval H [2]
Indoor entering dry-bulb temperature, °F	2.0	[4] 4.0	0.5
Indoor entering wet-bulb temperature, °F	1.0		
Outdoor entering dry-bulb temperature, °F	2.0	10.0	1.0
Outdoor entering wet-bulb temperature, °F	1.5		0.5
External resistance to airflow, inches of water	0.12		[5] 0.02
Electrical voltage, % of rdg	2.0		1.5

1 See section 1.2 of this appendix, Definitions.
2 Applies when the heat pump is in the heating mode, except for the first 10 minutes after termination of a defrost cycle.
3 Applies during a defrost cycle and during the first 10 minutes after the termination of a defrost cycle when the heat pump is operating in the heating mode.
4 For heat pumps that turn off the indoor blower during the defrost cycle, the noted tolerance only applies during the 10 minute interval that follows defrost termination.
5 Only applies when testing non-ducted heat pumps.

3.9.1 Average Space Heating Capacity and Electrical Power Calculations

a. Evaluate average space heating capacity, $\dot{Q}_h{}^k(35)$, when expressed in units of Btu per hour, using:

$$\dot{Q}_h^k(35) = \frac{60 * \bar{\dot{V}} * C_{p,a} * \Gamma}{\Delta\tau_{FR}[v_n' * (1 + W_n)]} = \frac{60 * \bar{\dot{V}} * C_{p,a} * \Gamma}{\Delta\tau_{FR} v_n}$$

Where,

$\bar{V}$ = the average indoor air volume rate measured during sub-interval H, cfm.

$C_{p,a} = 0.24 + 0.444 \cdot W_n$, the constant pressure specific heat of the air-water vapor mixture that flows through the indoor coil and is expressed on a dry air basis, $Btu/lbm_{da} \cdot °F$.

v_n' = specific volume of the air-water vapor mixture at the nozzle, ft^3/lbm_{mx}.

W_n = humidity ratio of the air-water vapor mixture at the nozzle, lbm of water vapor per lbm of dry air.

$\Delta\tau_{FR} = \tau_2 - \tau_1$, the elapsed time from defrost termination to defrost termination, hr.

$$\Gamma = \int_{\tau_1}^{\tau_2} [T_{a2}(\tau) - T_{a1}(\tau)] d\tau,\ hr * {}^\circ F$$

$T_{a1}(\tau)$ = dry bulb temperature of the air entering the indoor coil at elapsed time τ, °F; only recorded when indoor coil airflow occurs; assigned the value of zero during periods (if any) where the indoor blower cycles off.

$T_{a2}(\tau)$ = dry bulb temperature of the air leaving the indoor coil at elapsed time τ, °F; only recorded when indoor coil airflow occurs; assigned the value of zero during periods (if any) where the indoor blower cycles off.

τ_1 = the elapsed time when the defrost termination occurs that begins the official test period, hr.

τ_2 = the elapsed time when the next automatically occurring defrost termination occurs, thus ending the official test period, hr.

v_n = specific volume of the dry air portion of the mixture evaluated at the dry-bulb temperature, vapor content, and barometric pressure existing at the nozzle, ft^3 per lbm of dry air.

To account for the effect of duct losses between the outlet of the indoor unit and the section 2.5.4 dry-bulb temperature grid, adjust $\dot{Q}_h^k(35)$ in accordance with section 7.3.4.3 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3).

b. Evaluate average electrical power, $\dot{E}_h^k(35)$, when expressed in units of watts, using:

$$\dot{E}_h^k(35) = \frac{e_{def}(35)}{\Delta\tau_{FR}}$$

For coil-only system heat pumps, increase $\dot{Q}_h^k(35)$ by,

$$\frac{1250\ Btu/h}{1000\ scfm} * \overline{\dot{V}_s} * \frac{\Delta\tau_a}{\Delta\tau_{FR}}$$

and increase $\dot{E}_h^k(35)$ by,

$$\frac{365\ W}{1000\ scfm} * \overline{\dot{V}_s} * \frac{\Delta\tau_a}{\Delta\tau_{FR}}$$

where $\overline{\dot{V}}_s$ is the average indoor air volume rate measured during the frost accumulation heating mode test and is expressed in units of cubic feet per minute of standard air (scfm).

c. For heat pumps having a constant-air-volume-rate indoor blower, the five additional steps listed below are required if the average of the external static pressures measured during sub-interval H exceeds the applicable section 3.1.4.4, 3.1.4.5, or 3.1.4.6 minimum (or targeted) external static pressure (ΔP_{min}) by 0.03 inches of water or more:

(1) Measure the average power consumption of the indoor blower motor ($\dot{E}_{fan,1}$) and record the corresponding external static pressure (ΔP_1) during or immediately following the frost accumulation heating mode test. Make the measurement at a time when the heat pump is heating, except for the first 10 minutes after the termination of a defrost cycle.

(2) After the frost accumulation heating mode test is completed and while maintaining the same test conditions, adjust the exhaust fan of the airflow measuring apparatus until the external static pressure increases to approximately $\Delta P_1 + (\Delta P_1 - \Delta P_{min})$.

(3) After re-establishing steady readings for the fan motor power and external static pressure, determine average values for the indoor blower power ($\dot{E}_{fan,2}$) and the external static pressure (ΔP_2) by making measurements over a 5-minute interval.

(4) Approximate the average power consumption of the indoor blower motor had the frost accumulation heating mode test been conducted at ΔP_{min} using linear extrapolation:

$$\dot{E}_{fan,\min} = \frac{\dot{E}_{fan,2} - \dot{E}_{fan,1}}{\Delta P_2 - \Delta P_1}(\Delta P_{\min} - \Delta P_1) + \dot{E}_{fan,1}$$

(5) Decrease the total heating capacity, $\dot{Q}_h^k(35)$, by the quantity $[(\dot{E}_{fan,1} - \dot{E}_{fan,min}) \cdot (\Delta\tau_a/\Delta\tau_{FR}]$, when expressed on a Btu/h basis. Decrease the total electrical power, $E_h^k(35)$, by the same quantity, now expressed in watts.

3.9.2 Demand Defrost Credit

a. Assign the demand defrost credit, F_{def}, that is used in section 4.2 of this

appendix to the value of 1 in all cases except for heat pumps having a demand-defrost control system (see section 1.2 of this appendix, Definitions). For such qualifying heat pumps, evaluate F_{def} using,

$$F_{def} = 1 + 0.03 * \left[1 - \frac{\Delta\tau_{def} - 1.5}{\Delta\tau_{\max} - 1.5}\right]$$

where:

$\Delta\tau_{def}$ = the time between defrost terminations (in hours) or 1.5, whichever is greater. A value of 6 must be assigned to $\Delta\tau_{def}$ if this limit is reached during a frost accumulation test and the heat pump has not completed a defrost cycle.

$\Delta\tau_{max}$ = maximum time between defrosts as allowed by the controls (in hours) or 12, whichever is less, as provided in the certification report.

b. For two-capacity heat pumps and for section 3.6.2 units, evaluate the above equation using the $\Delta\tau_{def}$ that applies based on the frost accumulation test conducted at high capacity and/or at the heating full-load air volume rate. For variable-speed heat pumps, evaluate $\Delta\tau_{def}$ based on the required frost accumulation test conducted at the intermediate compressor speed.

3.10 Test Procedures for Steady-State Low Temperature Heating Mode Tests (the H3, $H3_2$, and $H3_1$ tests).

Except for the modifications noted in this section, conduct the low temperature heating mode test using the same approach as specified in section 3.7 of this appendix for the maximum and high temperature tests. After satisfying the section 3.7 requirements for the pretest interval but before beginning to collect data to determine $Q_h^k(17)$ and $E_h^k(17)$, conduct a defrost cycle. This defrost cycle may be manually or automatically initiated. The defrost sequence must be terminated by the action of the heat pump's defrost controls. Begin the 30-minute data collection interval described in section 3.7 of this appendix, from which $Q_h^k(17)$ and $E_h^k(17)$ are determined, no sooner than 10 minutes after defrost termination. Defrosts should be prevented over the 30-minute data collection interval.

3.11 Additional Requirements for the Secondary Test Methods

3.11.1 If Using the Outdoor Air Enthalpy Method as the Secondary Test Method

During the ''official'' test, the outdoor air-side test apparatus described in section 2.10.1 of this appendix is connected to the outdoor unit. To help compensate for any effect that the addition of this test apparatus may have on the unit's performance, conduct a ''preliminary'' test where the outdoor air-side test apparatus is disconnected. Conduct a preliminary test prior to the first section 3.2 of this appendix steady-state cooling mode test and prior to the first section 3.6 of this appendix steady-state heating mode test. No other preliminary tests are required so long as the unit operates the outdoor fan during all cooling mode steady-state tests at the same speed and all heating mode steady-state tests at the same speed. If using more than one outdoor fan speed for the cooling mode steady-state tests, however, conduct a preliminary test prior to each cooling mode test where a different fan speed is first used. This same requirement applies for the heating mode tests.

3.11.1.1 Preliminary Test

3.11.1.1.1 If a Preliminary Test Precedes the Official Test

a. The test conditions for the preliminary test are the same as specified for the official test. Connect the indoor air-side test apparatus to the indoor coil; disconnect the outdoor air-side test apparatus. Allow the test room reconditioning apparatus and the unit being tested to operate for at least one hour. After attaining equilibrium conditions, measure the following quantities at equal intervals that span 5 minutes or less:

(1) The section 2.10.1 of this appendix evaporator and condenser temperatures or pressures;

(2) Parameters required according to the indoor air enthalpy method.

Continue these measurements until a 30-minute period (*e.g.,* seven consecutive 5-minute samples) is obtained where the Table 8 or Table 15, whichever applies, test tolerances are satisfied.

b. After collecting 30 minutes of steady-state data, reconnect the outdoor air-side test apparatus to the unit. Adjust the exhaust fan of the outdoor airflow measuring apparatus until averages for the evaporator and condenser temperatures, or the saturated temperatures corresponding to the measured pressures, agree within ±0.5 °F of the averages achieved when the outdoor air-side test apparatus was disconnected. Calculate the averages for the reconnected case using five or more consecutive readings taken at one minute intervals. Make these consecutive readings after re-establishing equilibrium conditions and before initiating the official test.

3.11.1.1.2 If a Preliminary Test Does Not Precede the Official Test

Connect the outdoor-side test apparatus to the unit. Adjust the exhaust fan of the outdoor airflow measuring apparatus to achieve the same external static pressure as measured during the prior preliminary test conducted with the unit operating in the same cooling or heating mode at the same outdoor fan speed.

3.11.1.1 Official Test

a. Continue (preliminary test was conducted) or begin (no preliminary test) the official test by making measurements for both the indoor and outdoor air enthalpy methods at equal intervals that span 5 minutes or less. Discontinue these measurements only after obtaining a 30-minute period where the specified test condition and test operating tolerances are satisfied. To constitute a valid official test:

(1) Achieve the energy balance specified in section 3.1.1 of this appendix; and,

(2) For cases where a preliminary test is conducted, the capacities determined using the indoor air enthalpy method from the official and preliminary test periods must agree within 2.0 percent.

b. For space cooling tests, calculate capacity from the outdoor air-enthalpy measurements as specified in sections 7.3.3.2 and 7.3.3.3 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3). Calculate heating capacity based on outdoor air-enthalpy measurements as specified in sections 7.3.4.2 and 7.3.3.4.3 of the same ASHRAE Standard. Adjust the outdoor-side capacity according to section 7.3.3.4 of ANSI/ASHRAE 37–2009 to account for line losses when testing split systems. Use the outdoor unit fan power as measured during the official test and not the value measured during the preliminary test, as described in section 8.6.2 of ANSI/ASHRAE 37–2009, when calculating the capacity.

3.11.2 If Using the Compressor Calibration Method as the Secondary Test Method

a. Conduct separate calibration tests using a calorimeter to determine the refrigerant flow rate. Or for cases where the superheat of the refrigerant leaving the evaporator is less than 5 °F, use the calorimeter to measure total capacity rather than refrigerant flow rate. Conduct these calibration tests at the same test conditions as specified for the tests in this appendix. Operate the unit for at least one hour or until obtaining equilibrium conditions before collecting data that will be used in determining the average refrigerant flow rate or total capacity. Sample the data at equal intervals that span 5 minutes or less. Determine average flow rate or average capacity from data sampled over a 30-minute period where the Table 8 (cooling) or the Table 15 (heating) tolerances are satisfied. Otherwise, conduct the calibration tests according to sections 5, 6, 7, and 8 of ASHRAE 23.1–2010 (incorporated by reference, see § 430.3); sections 5, 6, 7, 8, 9, and 11 of ASHRAE 41.9–2011 (incorporated by reference, see § 430.3); and section 7.4 of ANSI/ASHRAE 37–2009 (incorporated by reference, see § 430.3).

b. Calculate space cooling and space heating capacities using the compressor calibration method measurements as specified in section 7.4.5 and 7.4.6 respectively, of ANSI/ASHRAE 37–2009.

3.11.3 If Using the Refrigerant-Enthalpy Method as the Secondary Test Method

Conduct this secondary method according to section 7.5 of ANSI/ASHRAE 37–2009. Calculate space cooling and heating capacities using the refrigerant-enthalpy method measurements as specified in sections 7.5.4 and 7.5.5, respectively, of the same ASHRAE Standard.

3.12 Rounding of Space Conditioning Capacities for Reporting Purposes

a. When reporting rated capacities, round them off as specified in § 430.23 (for a single unit) and in 10 CFR 429.16 (for a sample).

b. For the capacities used to perform the calculations in section 4 of this appendix, however, round only to the nearest integer.

3.13 Laboratory Testing To Determine Off Mode Average Power Ratings

Voltage tolerances: As a percentage of reading, test operating tolerance shall be 2.0 percent and test condition tolerance shall be 1.5 percent (see section 1.2 of this appendix for definitions of these tolerances).

Conduct one of the following tests: If the central air conditioner or heat pump lacks a compressor crankcase heater, perform the test in section 3.13.1 of this appendix; if the central air conditioner or heat pump has a compressor crankcase heater that lacks controls and is not self-regulating, perform the test in section 3.13.1 of this appendix; if the central air conditioner or heat pump has a crankcase heater with a fixed power input controlled with a thermostat that measures ambient temperature and whose sensing element temperature is not affected by the heater, perform the test in section 3.13.1 of this appendix; if the central air conditioner or heat pump has a compressor crankcase heater equipped with self-regulating control or with controls for which the sensing element temperature is affected by the heater, perform the test in section 3.13.2 of this appendix.

3.13.1 This Test Determines the off Mode Average Power Rating for Central Air Conditioners and Heat Pumps That Lack a Compressor Crankcase Heater, or Have a Compressor Crankcase Heating System That Can Be Tested Without Control of Ambient Temperature During the Test. This Test Has No Ambient Condition Requirements

a. Test Sample Set-up and Power Measurement: For coil-only systems, provide a furnace or modular blower that is compatible with the system to serve as an interface with the thermostat (if used for the test) and to provide low-voltage control circuit power. Make all control circuit connections between the furnace (or modular blower) and the outdoor unit as specified by the manufacturer's installation instructions. Measure power supplied to both the furnace or modular blower and power supplied to the outdoor unit. Alternatively, provide a compatible transformer to supply low-voltage control circuit power, as described in section 2.2.d of this appendix. Measure transformer power, either supplied to the primary winding or supplied by the secondary winding of the transformer, and power supplied to the outdoor unit. For blower coil and single-package systems, make all control circuit connections between components as specified by the manufacturer's installation instructions, and provide power and measure power supplied to all system components.

b. Configure Controls: Configure the controls of the central air conditioner or heat pump so that it operates as if connected to a building thermostat that is set to the OFF position. Use a compatible building thermostat if necessary to achieve this configuration. For a thermostat-controlled crankcase heater with a fixed power input, bypass the crankcase heater thermostat if necessary to energize the heater.

c. Measure $P2_x$: If the unit has a crankcase heater time delay, make sure that time delay function is disabled or wait until delay time has passed. Determine the average power from non-zero value data measured over a 5-minute interval of the non-operating central air conditioner or heat pump and designate the average power as $P2_x$, the heating season total off mode power.

d. Measure $P2_x$ for coil-only split systems and for blower coil split systems for which a furnace or a modular blower is the designated air mover: Disconnect all low-voltage wiring for the *outdoor* components and *outdoor* controls from the low-voltage transformer. Determine the average power from non-zero value data measured over a 5-minute interval of the power supplied to the (remaining) low-voltage components of the central air conditioner or heat pump, or low-voltage power, $P2_x$. This power measurement does not include line power supplied to the outdoor unit. It is the line power supplied to the air mover, or, if a compatible transformer is used instead of an air mover, it is the line power supplied to the transformer primary coil. If a compatible transformer is used instead of an air mover and power output of the low-voltage secondary circuit is measured, P_x is zero.

e. Calculate *P2:* Set the number of compressors equal to the unit's number of single-stage compressors plus 1.75 times the unit's number of compressors that are not single-stage.

For single-package systems and blower coil split systems for which the designated air mover is not a furnace or modular blower, divide the heating season total off mode power ($P2_x$) by the number of compressors to calculate *P2,* the heating season per-compressor off mode power. Round *P2* to the nearest watt. The expression for calculating *P2* is as follows:

$$P2 = \frac{P2_x}{number\ of\ compressors}.$$

For coil-only split systems and blower coil split systems for which a furnace or a modular blower is the designated air mover, subtract the low-voltage power (P_x) from the heating season total off mode power ($P2_x$) and divide by the number of compressors to calculate *P2,* the heating season per-compressor off mode power. Round *P2* to the nearest

watt. The expression for calculating *P2* is as follows:

$$P2 = \frac{P2_x - P_x}{number\ of\ compressors}.$$

f. Shoulder-season per-compressor off mode power, P1: If the system does not have a crankcase heater, has a crankcase heater without controls that is not self-regulating, or has a value for the crankcase heater turn-on temperature (as certified in the DOE Compliance Certification Database) that is higher than 71 °F, P1 is equal to P2.

Otherwise, de-energize the crankcase heater (by removing the thermostat bypass or otherwise disconnecting only the power supply to the crankcase heater) and repeat the measurement as described in section 3.13.1.c of this appendix. Designate the measured average power as $P1_x$, the shoulder season total off mode power.

Determine the number of compressors as described in section 3.13.1.e of this appendix.

For single-package systems and blower coil systems for which the designated air mover is not a furnace or modular blower, divide the shoulder season total off mode power ($P1_x$) by the number of compressors to calculate *P1,* the shoulder season per-compressor off mode power. Round *P1* to the nearest watt. The expression for calculating *P*1 is as follows:

$$P1 = \frac{P1_x}{number\ of\ compressors}.$$

For coil-only split systems and blower coil split systems for which a furnace or a modular blower is the designated air mover, subtract the low-voltage power (P_x) from the shoulder season total off mode power ($P1_x$) and divide by the number of compressors to calculate *P1,* the shoulder season per-compressor off mode power. Round *P1* to the nearest watt. The expression for calculating *P1* is as follows:

$$P1 = \frac{P1_x - P_x}{number\ of\ compressors}.$$

3.13.2 This test determines the off mode average power rating for central air conditioners and heat pumps for which ambient temperature can affect the measurement of crankcase heater power.

a. Test Sample Set-up and Power Measurement: Set up the test and measurement as described in section 3.13.1.a of this appendix.

b. Configure Controls: Position a temperature sensor to measure the outdoor dry-bulb temperature in the air between 2 and 6 inches from the crankcase heater control temperature sensor or, if no such temperature sensor exists, position it in the air between 2 and 6 inches from the crankcase heater. Utilize the temperature measurements from this sensor for this portion of the test procedure. Configure the controls of the central air conditioner or heat pump so that it operates as if connected to a building thermostat that is set to the OFF position. Use a compatible building thermostat if necessary to achieve this configuration.

Conduct the test after completion of the B, B_1, or B_2 test. Alternatively, start the test when the outdoor dry-bulb temperature is at 82 °F and the temperature of the compressor shell (or temperature of each compressor's shell if there is more than one compressor) is at least 81 °F. Then adjust the outdoor temperature at a rate of change of no more than 20 °F per hour and achieve an outdoor dry-bulb temperature of 72 °F. Maintain this temperature within +/−2 °F while making the power measurement, as described in section 3.13.2.c of this appendix.

c. Measure $P1_x$: If the unit has a crankcase heater time delay, make sure that time delay function is disabled or wait until delay time has passed. Determine the average power from non-zero value data measured over a 5-minute interval of the non-operating central air conditioner or heat pump and designate the average power as $P1_x$, the shoulder season total off mode power. For units with crankcase heaters which operate during this part of the test and whose controls cycle or vary crankcase heater power over time, the test period shall consist of three complete crankcase heater cycles or 18 hours, whichever comes first. Designate the average power over the test period as $P1_x$, the shoulder season total off mode power.

d. Reduce outdoor temperature: Approach the target outdoor dry-bulb temperature by adjusting the outdoor temperature at a rate of change of no more than 20 °F per hour. This target temperature is five degrees Fahrenheit less than the temperature specified by the manufacturer in the DOE Compliance Certification Database at which the crankcase heater turns on. Maintain the target temperature within +/−2 °F while making the power measurement, as described in section 3.13.2.e of this appendix.

e. Measure $P2_x$: If the unit has a crankcase heater time delay, make sure that time delay function is disabled or wait until delay time has passed. Determine the average non-zero power of the non-operating central air conditioner or heat pump over a 5-minute interval and designate it as $P2_x$, the heating season total off mode power. For units with crankcase heaters whose controls cycle or vary crankcase heater power over time, the test period shall consist of three complete crankcase heater cycles or 18 hours, whichever comes first. Designate the average power over the test period as $P2_x$, the heating season total off mode power.

f. Measure P_x for coil-only split systems and for blower coil split systems for which a furnace or modular blower is the designated air mover: Disconnect all low-voltage wiring for the *outdoor* components and *outdoor* controls from the low-voltage transformer. Determine the average power from non-zero value data measured over a 5-minute interval of the power supplied to the (remaining) low-voltage components of the central air conditioner or heat pump, or low-voltage power, P_x. This power measurement does not include line power supplied to the outdoor unit. It is the line power supplied to the air mover, or, if a compatible transformer is used instead of an air mover, it is the line power supplied to the transformer primary coil. If a compatible transformer is used instead of an air mover and power output of the low-voltage secondary circuit is measured, P_x is zero.

g. Calculate *P1:*

Set the number of compressors equal to the unit's number of single-stage compressors plus 1.75 times the unit's number of compressors that are not single-stage.

For single-package systems and blower coil split systems for which the air mover is not a furnace or modular blower, divide the shoulder season total off mode power ($P1_x$) by the number of compressors to calculate *P1,* the shoulder season per-compressor off mode power. Round to the nearest watt. The expression for calculating *P1* is as follows:

$$P1 = \frac{P1_x}{number\ of\ compressors}.$$

For coil-only split systems and blower coil split systems for which a furnace or a modular blower is the designated air mover, subtract the low-voltage power (P_x) from the shoulder season total off mode power ($P1_x$) and divide by the number of compressors to calculate *P1,* the shoulder season per-compressor off mode power. Round to the nearest watt. The expression for calculating *P1* is as follows:

$$P1 = \frac{P1_x - P_x}{number\ of\ compressors}.$$

h. Calculate *P2:*

Determine the number of compressors as described in section 3.13.2.g of this appendix.

For single-package systems and blower coil split systems for which the air mover is not a furnace, divide the heating season total off mode power ($P1_x$) by the number of compressors to calculate *P2,* the heating season per-compressor off mode power. Round to the nearest watt. The expression for calculating *P2* is as follows:

$$P2 = \frac{P2_x}{number\ of\ compressors}.$$

For coil-only split systems and blower coil split systems for which a furnace or a modular blower is the designated air mover, subtract the low-voltage power (P_x) from the heating season total off mode power ($P2_x$) and divide by the number of compressors to calculate *P2,* the heating season per-compressor off mode power. Round to the nearest watt. The expression for calculating *P2* is as follows:

$$P2 = \frac{P2_x - P_x}{number\ of\ compressors}.$$

4. Calculations of Seasonal Performance Descriptors

4.1 Seasonal Energy Efficiency Ratio (SEER) Calculations. SEER must be calculated as follows:

For equipment covered under sections 4.1.2, 4.1.3, and 4.1.4 of this appendix, evaluate the seasonal energy efficiency ratio,

Equation 4.1-1 $$SEER = \frac{\sum_{j=1}^{8} q_c(T_j)}{\sum_{j=1}^{8} e_c(T_j)} = \frac{\sum_{j=1}^{8} \frac{q_c(T_j)}{N}}{\sum_{j=1}^{8} \frac{e_c(T_j)}{N}}$$

where:

$\frac{q_c(T_j)}{N}$ = the ratio of the total space cooling provided during periods of the space cooling season when the outdoor temperature fell within the range represented by bin temperature T_j to the total number of hours in the cooling season (N), Btu/h.

$\frac{e_c(T_j)}{N}$ = the electrical energy consumed by the test unit during periods of the space cooling season when the outdoor temperature fell within the range represented by bin temperature T_j to the total number of hours in the cooling season (N), W.

T_j = the outdoor bin temperature, °F. Outdoor temperatures are grouped or "binned." Use bins of 5 °F with the 8 cooling season bin temperatures being 67, 72, 77, 82, 87, 92, 97, and 102 °F.

j = the bin number. For cooling season calculations, j ranges from 1 to 8.

Additionally, for sections 4.1.2, 4.1.3, and 4.1.4 of this appendix, use a building cooling load, $BL(T_j)$. When referenced, evaluate $BL(T_j)$ for cooling using,

Equation 4.1-2 $$BL(T_j) = \frac{(T_j - 65)}{95 - 65} * \frac{\dot{Q}_c^{k=2}(95)}{1.1}$$

Where:

$\dot{Q}_c^{k=2}(95)$ = the space cooling capacity determined from the A_2 test and calculated as specified in section 3.3 of this appendix, Btu/h.

1.1 = sizing factor, dimensionless.

The temperatures 95 °F and 65 °F in the building load equation represent the selected outdoor design temperature

and the zero-load base temperature, respectively.

4.1.1 SEER Calculations for a Blower Coil System Having a Single-Speed Compressor and Either a Fixed-Speed Indoor Blower or a Constant-Air-Volume-Rate Indoor Blower, or a Coil-Only System Air Conditioner or Heat Pump

a. Evaluate the seasonal energy efficiency ratio, expressed in units of Btu/watt-hour, using:

$$SEER = PLF(0.5) * EER_B$$

Where:

$EER_B = \frac{\dot{Q}_c(82)}{\dot{E}_c(82)}$ = the energy efficiency ratio determined from the B test described in sections 3.2.1, 3.1.4.1, and 3.3 of this appendix, Btu/h per watt.

$PLF(0.5) = 1 - 0.5 \cdot C_D^c$, the part-load performance factor evaluated at a cooling load factor of 0.5, dimensionless.

b. Refer to section 3.3 of this appendix regarding the definition and calculation of $\dot{Q}_c(82)$ and $\dot{E}_c(82)$.

4.1.2 SEER Calculations for an Air Conditioner or Heat Pump Having a Single-Speed Compressor and a Variable-Speed Variable-Air-Volume-Rate Indoor Blower

4.1.2.1 Units covered by section 3.2.2.1 of this appendix where indoor blower capacity modulation correlates with the outdoor dry bulb temperature. The manufacturer must provide information on how the indoor air volume rate or the indoor blower speed varies over the outdoor temperature range of 67 °F to 102 °F. Calculate SEER using Equation 4.1–1. Evaluate the quantity $q_c(T_j)/N$ in Equation 4.1–1 using,

Equation 4.1.2-1 $$\frac{q_c(T_j)}{N} = X(T_j) * \dot{Q}_c(T_j) * \frac{n_j}{N}$$

Where:

$X(T_j) = \begin{Bmatrix} BL(T_j)/\dot{Q}_c(T_j) \\ or \\ 1 \end{Bmatrix}$ whichever is less; the cooling mode load factor for temperature bin j, dimensionless.

$\dot{Q}_c(T_j)$ = the space cooling capacity of the test unit when operating at outdoor temperature, T_j, Btu/h.

n_j/N = fractional bin hours for the cooling season; the ratio of the number of hours during the cooling season when the outdoor temperature fell within the range represented by bin temperature T_j to the total number of hours in the cooling season, dimensionless.

a. For the space cooling season, assign n_j/N as specified in Table 18. Use Equation 4.1–2 to calculate the building load, $BL(T_j)$. Evaluate $\dot{Q}_c(T_j)$ using,

Equation 4.1.2-2 $\dot{Q}_c(T_j) = \dot{Q}_c^{k=1}(T_j) + \frac{\dot{Q}_c^{k=2}(T_j) - \dot{Q}_c^{k=1}(T_j)}{FP_c^{k=2} - FP_c^{k=1}} * \left[FP_c(T_j) - FP_c^{k=1}\right]$

where:

$$\dot{Q}_c^{k=1}(T_j) = \dot{Q}_c^{k=1}(82) + \frac{\dot{Q}_c^{k=1}(95) - \dot{Q}_c^{k=1}(82)}{95 - 82} * (T_j - 82)$$

the space cooling capacity of the test unit at outdoor temperature T_j if operated at the cooling minimum air volume rate, Btu/h.

$$\dot{Q}_c^{k=2}(T_j) = \dot{Q}_c^{k=2}(82) + \frac{\dot{Q}_c^{k=2}(95) - \dot{Q}_c^{k=2}(82)}{95 - 82} * (T_j - 82)$$

the space cooling capacity of the test unit at outdoor temperature T_j if operated at the Cooling full-load air volume rate, Btu/h.

b. For units where indoor blower speed is the primary control variable, $FP_c^{k=1}$ denotes the fan speed used during the required A_1 and B_1 tests (see section 3.2.2.1 of this appendix), $FP_c^{k=2}$ denotes the fan speed used during the required A_2 and B_2 tests, and $FP_c(T_j)$ denotes the fan speed used by the unit when the outdoor temperature equals T_j. For units where indoor air volume rate is the primary control variable, the three FP_c's are similarly defined only now being expressed in terms of air volume rates rather than fan speeds. Refer to sections 3.2.2.1, 3.1.4 to 3.1.4.2, and 3.3 of this appendix regarding the definitions and calculations of $\dot{Q}_c^{k=1}(82)$, $\dot{Q}_c^{k=1}(95)$, $\dot{Q}_c^{k=2}(82)$, and $\dot{Q}_c^{k=2}(95)$.

Calculate $e_c(T_j)/N$ in Equation 4.1-1 using, Equation 4.1.2-3 $\frac{e_c(T_j)}{N} = \frac{X(T_j) * \dot{E}_c(T_j)}{PLF_j} * \frac{n_j}{N}$

Where:

$PLF_j = 1 - C_D^c \cdot [1 - X(T_j)]$, the part load factor, dimensionless.

$\dot{E}_c(T_j)$ = the electrical power consumption of the test unit when operating at outdoor temperature T_j, W.

c. The quantities $X(T_j)$ and n_j/N are the same quantities as used in Equation 4.1.2–1.

d. Evaluate $\dot{E}_c(T_j)$ using,

$$\dot{E}_c(T_j) = \dot{E}_c^{k=1}(T_j) + \frac{\dot{E}_c^{k=2}(T_j) - \dot{E}_c^{k=1}(T_j)}{\mathrm{FP}_c^{k=2} - \mathrm{FP}_c^{k=1}} * \left[\mathrm{FP}_c(T_j) - \mathrm{FP}_c^{k=1}\right]$$

where:

$$\dot{E}_c^{k=1}(T_j) = \dot{E}_c^{k=1}(82) + \frac{\dot{E}_c^{k=1}(95) - \dot{E}_c^{k=1}(82)}{95-82} * (T_j - 82)$$

the electrical power consumption of the test unit at outdoor temperature T_j if operated at the Cooling Minimum Air Volume Rate, W.

$\dot{E}_c^{k=2}(T_j) = \dot{E}_c^{k=2}(82) + \frac{\dot{E}_c^{k=2}(95) - \dot{E}_c^{k=2}(82)}{95-82} * (T_j - 82)$ the electrical power consumption of the test unit at outdoor temperature T_j if operated at the cooling full-load air volume rate, W.

e. The parameters $FP_c^{k=1}$, and $FP_c^{k=2}$, and $FP_c(T_j)$ are the same quantities that are used when evaluating Equation 4.1.2–2. Refer to sections 3.2.2.1, 3.1.4 to 3.1.4.2, and 3.3 of this appendix regarding the definitions and calculations of $\dot{E}_c^{k=1}(82)$, $\dot{E}_c^{k=1}(95)$, $\dot{E}_c^{k=2}(82)$, and $\dot{E}_c^{k=2}(95)$.

4.1.2.2 Units Covered by Section 3.2.2.2 of This Appendix Where Indoor Blower Capacity Modulation Is Used To Adjust the Sensible to Total Cooling Capacity Ratio

Calculate SEER as specified in section 4.1.1 of this appendix.

4.1.2.3 SEER Calculations for an Air Conditioner or Heat Pump Having a Two-Capacity Compressor

Calculate SEER using Equation 4.1–1. Evaluate the space cooling capacity, $\dot{Q}_c^{k=1}(T_j)$, and electrical power consumption, $\dot{E}_c^{k=1}(T_j)$, of the test unit when operating at low compressor capacity and outdoor temperature T_j using,

Equation 4.1.3-1 $$\dot{Q}_c^{k=1}(T_j) = \dot{Q}_c^{k=1}(67) + \frac{\dot{Q}_c^{k=1}(82) - \dot{Q}_c^{k=1}(67)}{82-67} * (T_j - 67)$$

Equation 4.1.3-2 $$\dot{E}_c^{k=1}(T_j) = \dot{E}_c^{k=1}(67) + \frac{\dot{E}_c^{k=1}(82) - \dot{E}_c^{k=1}(67)}{82-67} * (T_j - 67)$$

where $\dot{Q}_c^{k=1}(82)$ and $\dot{E}_c^{k=1}(82)$ are determined from the B_1 test, $\dot{Q}_c^{k=1}(67)$ and $\dot{E}_c^{k=1}(67)$ are determined from the F_1 test, and all four quantities are calculated as specified in section 3.3 of this appendix. Evaluate the space cooling capacity, $\dot{Q}_c^{k=2}(T_j)$, and electrical power consumption, $\dot{E}_c^{k=2}(T_j)$, of the test unit when operating at high compressor capacity and outdoor temperature T_j using,

Equation 4.1.3-3 $$\dot{Q}_c^{k=2}(T_j) = \dot{Q}_c^{k=2}(82) + \frac{\dot{Q}_c^{k=2}(95) - \dot{Q}_c^{k=2}(82)}{95-82} * (T_j - 82)$$

Equation 4.1.3-4 $$\dot{E}_c^{k=2}(T_j) = \dot{E}_c^{k=2}(82) + \frac{\dot{E}_c^{k=2}(95) - \dot{E}_c^{k=2}(82)}{95-82} * (T_j - 82)$$

where $\dot{Q}_c^{k=2}(95)$ and $\dot{E}_c^{k=2}(95)$ are determined from the A_2 test, $\dot{Q}_c^{k=2}(82)$, and $\dot{E}_c^{k=2}(82)$, are determined from the B_2test, and all are calculated as specified in section 3.3 of this appendix.

The calculation of Equation 4.1–1 quantities $q_c(T_j)/N$ and $e_c(T_j)/N$ differs depending on whether the test unit would operate at low capacity (section 4.1.2.4 of this appendix), cycle between low and high capacity (section 4.1.2.5 of this appendix), or operate at high capacity (sections 4.1.2.6 and 4.1.2.7 of this appendix) in responding to the building load. For units that lock out low capacity operation at higher outdoor temperatures, the manufacturer must supply information regarding this temperature so that the appropriate equations are used. Use Equation 4.1–2 to calculate the building load, $BL(T_j)$, for each temperature bin.

4.1.2.4 Steady-state space cooling capacity at low compressor capacity is greater than or equal to the building cooling load at temperature T_j, $\dot{Q}_c^{k=1}(T_j) \geq BL(T_j)$.

$$\frac{q_c(T_j)}{N} = X^{k=1}(T_j) * \dot{Q}_c^{k=1}(T_j) * \frac{n_j}{N} \qquad \frac{e_c(T_j)}{N} = \frac{X^{k=1}(T_j) * \dot{E}_c^{k=1}(T_j)}{PLF_j} * \frac{n_j}{N}$$

Where:

$X^{k=1}(T_j) = BL(T_j)/\dot{Q}_c^{k=1}(T_j)$, the cooling mode low capacity load factor for temperature bin j, dimensionless.

$PLF_j = 1 - C_D^c \cdot [1 - X^{k=1}(T_j)]$, the part load factor, dimensionless.

$\frac{n_j}{N}$ = fractional bin hours for the cooling season; the ratio of the number of hours during the cooling season when the outdoor temperature fell within the range represented by bin temperature T_j to the total number of hours in the cooling season, dimensionless.

Obtain the fractional bin hours for the cooling season, n_j/N, from Table 18. Use Equations 4.1.3-1 and 4.1.3-2, respectively, to evaluate $\dot{Q}_c^{k=1}(T_j)$ and $\dot{E}_c^{k=1}(T_j)$.

TABLE 18—DISTRIBUTION OF FRACTIONAL HOURS WITHIN COOLING SEASON TEMPERATURE BINS

Bin number, j	Bin temperature range, °F	Representative temperature for bin, °F	Fraction of total temperature bin hours, n_j/N
1	65–69	67	0.214
2	70–74	72	0.231
3	75–79	77	0.216
4	80–84	82	0.161
5	85–89	87	0.104
6	90–94	92	0.052
7	95–99	97	0.018
8	100–104	102	0.004

4.1.2.5 Unit alternates between high (k=2) and low (k=1) compressor capacity to satisfy the building cooling load at temperature T_j, $\dot{Q}_c^{k=1}(T_j) < BL(T_j) < \dot{Q}_c^{k=2}(T_j)$.

$$\frac{q_c(T_j)}{N} = [X^{k=1}(T_j) * \dot{Q}_c^{k=1}(T_j) + X^{k=2}(T_j) * \dot{Q}_c^{k=2}(T_j)] * \frac{n_j}{N}$$

$$\frac{e_c(T_j)}{N} = [X^{k=1}(T_j) * \dot{E}_c^{k=1}(T_j) + X^{k=2}(T_j) * \dot{E}_c^{k=2}(T_j)] * \frac{n_j}{N}$$

where:

$X^{k=1}(T_j) = \frac{\dot{Q}_c^{k=2}(T_j) - BL(T_j)}{\dot{Q}_c^{k=2}(T_j) - \dot{Q}_c^{k=1}(T_j)}$ the cooling mode, low capacity load factor for temperature bin j, dimensionless.

$X^{k=2}(T_j) = 1 - X^{k=1}(T_j)$, the cooling mode, high capacity load factor for temperature bin j, dimensionless.

Obtain the fractional bin hours for the cooling season, n_j/N, from Table 18. Use Equations 4.1.3–1 and 4.1.3–2, respectively, to evaluate $\dot{Q}_c^{k=1}(T_j)$ and $\dot{E}_c^{k=1}(T_j)$. Use Equations 4.1.3–3 and 4.1.3–4, respectively, to evaluate $\dot{Q}_c^{k=2}(T_j)$ and $\dot{E}_c^{k=2}(T_j)$.

4.1.2.6 Unit only operates at high (k = 2) compressor capacity at temperature T_j and its capacity is greater than the building cooling load, $BL(T_j) < \dot{Q}_c^{k=2}(T_j)$. This section applies to units that lock out low compressor capacity operation at higher outdoor temperatures.

$$\frac{q_c(T_j)}{N} = X^{k=2}(T_j) * \dot{Q}_c^{k=2}(T_j) * \frac{n_j}{N} \qquad \frac{e_c(T_j)}{N} = \frac{X^{k=2}(T_j) * \dot{E}_c^{k=2}(T_j)}{PLF_j} * \frac{n_j}{N}$$

Where:

$X^{k=2}(T_j) = BL(T_j)/\dot{Q}_c^{k=2}(T_j)$, the cooling mode high capacity load factor for temperature bin j, dimensionless.

$PLF_j = 1 - C_D^c(k = 2) * [1 - X^{k=2}(T_j)$ the part load factor, dimensionless.

Obtain the fraction bin hours for the cooling season, $\frac{n_j}{N}$, from Table 18. Use Equations 4.1.3-3 and 4.1.3-4, respectively, to evaluate $\dot{Q}_c^{k=2}(T_j)$ and $\dot{E}_c^{k=2}(T_j)$. If the C_2 and D_2 tests described in section 3.2.3 and Table 6 of this appendix are not conducted, set C_D^c (k=2) equal to the default value specified in section 3.5.3 of this appendix.

4.1.2.7 Unit must operate continuously at high (k = 2) compressor capacity at temperature T_j, $BL(T_j) \geq \dot{Q}_c^{k=2}(T_j)$.

$$\frac{q_c(T_j)}{N} = \dot{Q}_c^{k=2}(T_j) * \frac{n_j}{N} \qquad \frac{e_c(T_j)}{N} = \dot{E}_c^{k=2}(T_j) * \frac{n_j}{N}$$

Obtain the fractional bin hours for the cooling season, n_j/N, from Table 18. Use Equations 4.1.3–3 and 4.1.3–4, respectively, to evaluate $\dot{Q}_c^{k=2}(T_j)$ and $\dot{E}_c^{k=2}(T_j)$.

4.1.3 SEER Calculations for an Air Conditioner or Heat Pump Having a Variable-Speed Compressor

Calculate SEER using Equation 4.1–1. Evaluate the space cooling capacity, $\dot{Q}_c^{k=1}(T_j)$, and electrical power consumption, $\dot{E}_c^{k=1}(T_j)$, of the test unit when operating at minimum compressor speed and outdoor temperature T_j. Use,

Equation 4.1.4-1 $$\dot{Q}_c^{k=1}(T_j) = \dot{Q}_c^{k=1}(67) + \frac{\dot{Q}_c^{k=1}(82) - \dot{Q}_c^{k=1}(67)}{82-67} * (T_j - 67)$$

Equation 4.1.4-2 $$\dot{E}_c^{k=1}(T_j) = \dot{E}_c^{k=1}(67) + \frac{\dot{E}_c^{k=1}(82) - \dot{E}_c^{k=1}(67)}{82-67} * (T_j - 67)$$

where $\dot{Q}_c^{k=1}(82)$ and $\dot{E}_c^{k=1}(82)$ are determined from the B_1 test, $\dot{Q}_c^{k=1}(67)$ and $\dot{E}_c^{k=1}(67)$ are determined from the F1 test, and all four quantities are calculated as specified in section 3.3 of this appendix. Evaluate the space cooling capacity, $\dot{Q}_c^{k=2}(T_j)$, and electrical power consumption, $\dot{E}_c^{k=2}(T_j)$, of the test unit when operating at full compressor speed and outdoor temperature T_j. Use Equations 4.1.3–3 and 4.1.3–4, respectively, where $\dot{Q}_c^{k=2}(95)$ and $\dot{E}_c^{k=2}(95)$ are determined from the A_2 test, $\dot{Q}_c^{k=2}(82)$ and $\dot{E}_c^{k=2}(82)$ are determined from the B_2 test, and all four quantities are calculated as specified in section 3.3 of this appendix. Calculate the space cooling capacity, $\dot{Q}_c^{k=v}(T_j)$, and electrical power consumption, $\dot{E}_c^{k=v}(T_j)$, of the test unit when operating at outdoor temperature T_j and the intermediate compressor speed used during the section 3.2.4 (and Table 7) E_V test of this appendix using,

Equation 4.1.4–3 $\dot{Q}_c^{k=v}(T_j) = \dot{Q}_c^{k=v}(87) + M_Q * (T_j - 87)$

Equation 4.1.4–4 $\dot{E}_c^{k=v}(T_j) = \dot{E}_h^{k=v}(87) + M_E * (T_j - 87)$

where $\dot{Q}_c^{k=v}(87)$ and $\dot{E}_c^{k=v}(87)$ are determined from the E_V test and calculated as specified in section 3.3 of this appendix. Approximate the slopes of the k=v intermediate speed cooling capacity and electrical power input curves, M_Q and M_E, as follows:

$$M_Q = \left[\frac{\dot{Q}_c^{k=1}(82) - \dot{Q}_c^{k=1}(67)}{82-67} * (1 - N_Q)\right] + \left[N_Q * \frac{\dot{Q}_c^{k=2}(95) - \dot{Q}_c^{k=2}(82)}{95-82}\right]$$

$$M_E = \left[\frac{\dot{E}_c^{k=1}(82) - \dot{E}_c^{k=1}(67)}{82-67} * (1 - N_E)\right] + \left[N_E * \frac{\dot{E}_c^{k=2}(95) - \dot{E}_c^{k=2}(82)}{95-82}\right]$$

where,

$$N_Q = \frac{\dot{Q}_c^{k=v}(87) - \dot{Q}_c^{k=1}(87)}{\dot{Q}_c^{k=2}(87) - \dot{Q}_c^{k=1}(87)} \qquad N_E = \frac{\dot{E}_c^{k=v}(87) - \dot{E}_c^{k=1}(87)}{\dot{E}_c^{k=2}(87) - \dot{E}_c^{k=1}(87)}$$

Use Equations 4.1.4–1 and 4.1.4–2, respectively, to calculate $\dot{Q}_c^{k=1}(87)$ and $\dot{E}_c^{k=1}(87)$.

4.1.3.1 Steady-state space cooling capacity when operating at minimum compressor speed is greater than or equal to the building cooling load at temperature T_j, $\dot{Q}_c^{k=1}(T_j) \geq BL(T_j)$.

$$\frac{q_c(T_j)}{N} = X^{k=1}(T_j) * \dot{Q}_c^{k=1}(T_j) * \frac{n_j}{N} \qquad \frac{e_c(T_j)}{N} = \frac{X^{k=1}(T_j) * \dot{E}_c^{k=1}(T_j)}{PLF_j} * \frac{n_j}{N}$$

Where:

$X^{k=1}(T_j) = BL(T_j)/\dot{Q}_c^{k=1}(T_j)$, the cooling mode minimum speed load factor for temperature bin j, dimensionless.

$PLF_j = 1 - C_D^c \cdot [1 - X^{k=1}(T_j)]$, the part load factor, dimensionless.

n_j/N = fractional bin hours for the cooling season; the ratio of the number of hours during the cooling season when the outdoor temperature fell within the range represented by bin temperature T_j to the total number of hours in the cooling season, dimensionless.

Obtain the fractional bin hours for the cooling season, n_j/N, from Table 18. Use Equations 4.1.3–1 and 4.1.3–2, respectively, to evaluate $\dot{Q}_c^{k=l}(T_j)$ and $\dot{E}_c^{k=l}(T_j)$.

4.1.3.2 Unit operates at an intermediate compressor speed (k=i) in order to match the building cooling load at temperature T_j, $\dot{Q}_c^{k=1}(T_j) < BL(T_j) < \dot{Q}_c^{k=2}(T_j)$.

$$\frac{q_c(T_j)}{N} = \dot{Q}_c^{k=i}(T_j) * \frac{n_j}{N} \qquad \frac{e_c(T_j)}{N} = \dot{E}_c^{k=i}(T_j) * \frac{n_j}{N}$$

Where:

$\dot{Q}_c^{k=i}(T_j) = BL(T_j)$, the space cooling capacity delivered by the unit in matching the building load at temperature T_j, Btu/h.

The matching occurs with the unit operating at compressor speed k = i.

$\dot{E}_c^{k=i}(T_j) = \frac{\dot{Q}_c^{k=i}(T_j)}{EER^{k=i}(T_j)}$ the electrical power input required by the test unit when operating at a compressor speed of k = i and temperature T_j, W.

$EER^{k=i}(T_j)$ = the steady-state energy efficiency ratio of the test unit when operating at a compressor speed of k = i and temperature T_j, Btu/h per W.

Obtain the fractional bin hours for the cooling season, n_j/N, from Table 18. For each temperature bin where the unit operates at an intermediate compressor speed, determine the energy efficiency ratio $EER^{k=i}(T_j)$ using,

$EER^{k=i}(T_j) = A + B \cdot T_j + C \cdot T_j^2$.

For each unit, determine the coefficients A, B, and C by conducting the following calculations once:

$$D = \frac{T_2^2 - T_1^2}{T_v^2 - T_1^2} \qquad B = \frac{EER^{k=1}(T_1) - EER^{k=2}(T_2) - D*[EER^{k=1}(T_1) - EER^{k=v}(T_v)]}{T_1 - T_2 - D*(T_1 - T_v)}$$

$$C = \frac{EER^{k=1}(T_1) - EER^{k=2}(T_2) - B*(T_1 - T_2)}{T_1^2 - T_2^2} \qquad A = EER^{k=1}(T_2) - B*T_2 - C*T_2^2$$

Where:

T_1 = the outdoor temperature at which the unit, when operating at minimum compressor speed, provides a space cooling capacity that is equal to the building load ($\dot{Q}_c^{k=1}(T_1) = BL(T_1)$), °F. Determine T_1 by equating Equations 4.1.3–1 and 4.1–2 and solving for outdoor temperature.

T_v = the outdoor temperature at which the unit, when operating at the intermediate compressor speed used during the section 3.2.4 E_V test of this appendix, provides a space cooling capacity that is equal to the building load ($\dot{Q}_c^{k=v}(T_v) = BL(T_v)$), °F. Determine T_v by equating Equations 4.1.4–3 and 4.1–2 and solving for outdoor temperature.

T_2 = the outdoor temperature at which the unit, when operating at full compressor speed, provides a space cooling capacity that is equal to the building load ($\dot{Q}_c^{k=2}(T_2) = BL(T_2)$), °F. Determine T_2 by equating Equations 4.1.3–3 and 4.1–2 and solving for outdoor temperature.

$$EER^{k=1}(T_1) = \frac{\dot{Q}_c^{k=1}(T_j)[Eqn.\,4.1.4-1, substituting\ T_1\ for\ T_j]}{\dot{E}_c^{k=1}(T_j)[Eqn.\,4.1.4-2, substituting\ T_1\ for\ T_j]}, Btu/h \text{ per } W$$

$$EER^{k=v}(T_v) = \frac{\dot{Q}_c^{k=v}(T_v)[Eqn.\,4.1.4-3, substituting\ T_v\ for\ T_j]}{\dot{E}_c^{k=v}(T_v)[Eqn.\,4.1.4-4, substituting\ T_v\ for\ T_j]}, Btu/h \text{ per } W$$

$$EER^{k=2}(T_2) = \frac{\dot{Q}_c^{k=2}(T_2)[Eqn.\,4.1.3-3, substituting\ T_2\ for\ T_j]}{\dot{E}_c^{k=2}(T_2)[Eqn.\,4.1.3-4, substituting\ T_2\ for\ T_j]}, Btu/h \text{ per } W$$

4.1.3.3 Unit must operate continuously at full (k = 2) compressor speed at temperature Tj, $BL(T_j) \geq \dot{Q}_c^{k=2}(T_j)$. Evaluate the Equation 4.1–1 quantities

$$\frac{q_c(T_j)}{N} \text{ and } \frac{e_c(T_j)}{N}$$

as specified in section 4.1.2.7 of this appendix with the understanding that $\dot{Q}_c^{k=2}(T_j)$ and $\dot{E}_c^{k=2}(T_j)$ correspond to full compressor speed operation and are derived from the results of the tests specified in section 3.2.4 of this appendix.

4.1.4 SEER Calculations for an Air Conditioner or Heat Pump Having a Single Indoor Unit With Multiple Indoor Blowers

Calculate SEER using Eq. 4.1–1, where $q_c(Tj)/N$ and $e_c(Tj)/N$ are evaluated as specified in the applicable subsection.

4.1.4.1 For Multiple Indoor Blower Systems That Are Connected to a Single, Single-Speed Outdoor Unit

a. Calculate the space cooling capacity, $\dot{Q}_c^{k=1}(T_j)$, and electrical power consumption, $\dot{E}_c^{k=1}(T_j)$, of the test unit when operating at the cooling minimum air volume rate and outdoor temperature T_j using the equations given in section 4.1.2.1 of this appendix. Calculate the space cooling capacity, $\dot{Q}_c^{k=2}(T_j)$, and electrical power consumption, $\dot{E}_c^{k=2}(T_j)$, of the test unit when operating at the cooling full-load air volume rate and outdoor temperature T_j using the equations given in section 4.1.2.1 of this appendix. In evaluating the section 4.1.2.1 equations, determine the quantities $\dot{Q}_c^{k=1}(82)$ and $\dot{E}_c^{k=1}(82)$ from the B1 test, $\dot{Q}_c^{k=1}(95)$ and $\dot{E}_c^{k=1}(95)$ from the Al test, $\dot{Q}_c^{k=2}(82)$ and $\dot{E}_c^{k=2}(82)$ from the B2 test, and $\dot{Q}_c^{k=2}(95)$ and $\dot{E}_c^{k=2}(95)$ from the A2 test. Evaluate all eight quantities as specified in section 3.3 of this appendix. Refer to section 3.2.2.1 and Table 5 of this appendix for additional information on the four referenced laboratory tests.

b. Determine the cooling mode cyclic degradation coefficient, CD_c, as per sections 3.2.2.1 and 3.5 to 3.5.3 of this

appendix. Assign this same value to $CD_c(K=2)$.

c. Except for using the above values of $\dot{Q}_c^{k=1}(T_j)$, $\dot{E}_c^{k=1}(T_j)$, $\dot{E}_c^{k=2}(T_j)$, $\dot{Q}_c^{k=2}(T_j)$, CD_c, and CD_c (K=2), calculate the quantities $q_c(T_j)/N$ and $e_c(T_j)/N$ as specified in section 4.1.3.1 of this appendix for cases where $\dot{Q}_c^{k=1}(T_j) \geq BL(T_j)$. For all other outdoor bin temperatures, T_j, calculate $q_c(Tj)/N$ and $e_c(Tj)/N$ as specified in section 4.1.3.3 of this appendix if $\dot{Q}_c^{k=2}(T_j) > BL(T_j)$ or as specified in section 4.1.3.4 of this appendix if $\dot{Q}_c^{k=2}(T_j) \leq BL(T_j)$.

4.1.4.2 For multiple indoor blower systems that are connected to either a lone outdoor unit having a two-capacity compressor or to two separate single-speed outdoor units of identical model, calculate the quantities $q_c(Tj)/N$ and $e_c(Tj)/N$ as specified in section 4.1.3 of this appendix.

4.2 Heating Seasonal Performance Factor (HSPF) Calculations

Unless an approved alternative efficiency determination method is used, as set forth in 10 CFR 429.70(e), HSPF must be calculated as follows: Six generalized climatic regions are depicted in Figure 1 and otherwise defined in Table 19. For each of these regions and for each applicable standardized design heating requirement, evaluate the heating seasonal performance factor using,

Equation 4.2-1

$$HSPF = \frac{\sum_j^J n_j * BL(T_j)}{\sum_j^J e_h(T_j) + \sum_j^J RH(T_j)} * F_{def} = \frac{\sum_j^J \left[\frac{n_j}{N} * BL(T_j)\right]}{\sum_j^J \frac{e_h(T_j)}{N} + \sum_j^J \frac{RH(T_j)}{N}} * F_{def}$$

Where:

$e_h(T_j)/N$ = The ratio of the electrical energy consumed by the heat pump during periods of the space heating season when the outdoor temperature fell within the range represented by bin temperature T_j to the total number of hours in the heating season (N), W. For heat pumps having a heat comfort controller, this ratio may also include electrical energy used by resistive elements to maintain a minimum air delivery temperature (see 4.2.5).

$RH(T_j)/N$ = The ratio of the electrical energy used for resistive space heating during periods when the outdoor temperature fell within the range represented by bin temperature T_j to the total number of hours in the heating season (N), W. Except as noted in section 4.2.5 of this appendix, resistive space heating is modeled as being used to meet that portion of the building load that the heat pump does not meet because of insufficient capacity or because the heat pump automatically turns off at the lowest outdoor temperatures. For heat pumps having a heat comfort controller, all or part of the electrical energy used by resistive heaters at a particular bin temperature may be reflected in $e_h(T_j)/N$ (see section 4.2.5 of this appendix).

T_j = the outdoor bin temperature, °F. Outdoor temperatures are ''binned'' such that calculations are only performed based one temperature within the bin. Bins of 5 °F are used.

n_j/N = Fractional bin hours for the heating season; the ratio of the number of hours during the heating season when the outdoor temperature fell within the range represented by bin temperature T_j to the total number of hours in the heating season, dimensionless. Obtain n_j/N values from Table 19.

j = the bin number, dimensionless.

J = for each generalized climatic region, the total number of temperature bins, dimensionless. Referring to Table 19, J is the highest bin number (j) having a nonzero entry for the fractional bin hours for the generalized climatic region of interest.

F_{def} = the demand defrost credit described in section 3.9.2 of this appendix, dimensionless.

$BL(T_j)$ = the building space conditioning load corresponding to an outdoor temperature of T_j; the heating season building load also depends on the generalized climatic region's outdoor design temperature and the design heating requirement, Btu/h.

TABLE 19—GENERALIZED CLIMATIC REGION INFORMATION

Region No.	I	II	III	IV	V	VI
Heating Load Hours, HLH	750	1,250	1,750	2,250	2,750	*2,750
Outdoor Design Temperature, T_{OD}	37	27	17	5	−10	30
j T_j (°F)	Fractional Bin Hours, n_j/N					
1 62	.291	.215	.153	.132	.106	.113
2 57	.239	.189	.142	.111	.092	.206
3 52	.194	.163	.138	.103	.086	.215
4 47	.129	.143	.137	.093	.076	.204
5 42	.081	.112	.135	.100	.078	.141
6 37	.041	.088	.118	.109	.087	.076
7 32	.019	.056	.092	.126	.102	.034
8 27	.005	.024	.047	.087	.094	.008
9 22	.001	.008	.021	.055	.074	.003
10 17	0	.002	.009	.036	.055	0
11 12	0	0	.005	.026	.047	0
12 7	0	0	.002	.013	.038	0
13 2	0	0	.001	.006	.029	0
14 −3	0	0	0	.002	.018	0
15 −8	0	0	0	.001	.010	0
16 −13	0	0	0	0	.005	0
17 −18	0	0	0	0	.002	0
18 −23	0	0	0	0	.001	0

*Pacific Coast Region.

Evaluate the building heating load using

$$\text{Equation 4.2-2} \qquad BL(T_j) = \frac{(65-T_j)}{65-T_{OD}} * C * DHR$$

Where:

T_{OD} = the outdoor design temperature, °F. An outdoor design temperature is specified for each generalized climatic region in Table 19.

C = 0.77, a correction factor which tends to improve the agreement between calculated and measured building loads, dimensionless.

DHR = the design heating requirement (see section 1.2 of this appendix, Definitions), Btu/h.

Calculate the minimum and maximum design heating requirements for each generalized climatic region as follows:

$$DHR_{min} = \begin{cases} \dot{Q}_h^k(47) * \left[\frac{65 - T_{OD}}{60}\right], & for\ Regions\ I, II, III, IV, \& VI \\ \dot{Q}_h^k(47), & for\ Region\ V \end{cases}$$

and

$$DHR_{max} = \begin{cases} 2 * \dot{Q}_h^k(47) * \left[\frac{65 - T_{OD}}{60}\right], & for\ Regions\ I, II, III, IV, \& VI \\ 2.2 * \dot{Q}_h^k(47), & for\ Region\ V \end{cases}$$

Rounded to the nearest standardized DHR given in Table 19

where $\dot{Q}_h^k(47)$ is expressed in units of Btu/h and otherwise defined as follows:

a. For a single-speed heat pump tested as per section 3.6.1 of this appendix, $\dot{Q}_h^k(47) = \dot{Q}_h(47)$, the space heating capacity determined from the H1 test.

b. For a variable-speed heat pump, a section 3.6.2 single-speed heat pump, or a two-capacity heat pump not covered by item 3, $\dot{Q}_n^k(47) = \dot{Q}_n^{k=2}(47)$, the space heating capacity determined from the $H1_2$ test.

c. For two-capacity, northern heat pumps (see section 1.2 of this appendix, Definitions), $\dot{Q}^k_h(47) = \dot{Q}^{k=1}_h(47)$, the space heating capacity determined from the $H1_1$ test.

If the optional $H1_N$ test is conducted on a variable-speed heat pump, the manufacturer has the option of defining $\dot{Q}^k_h(47)$ as specified above in item 2 or as $\dot{Q}^k_h(47) = \dot{Q}^{k=N}_h(47)$, the space heating capacity determined from the $H1_N$ test.

For all heat pumps, HSPF accounts for the heating delivered and the energy consumed by auxiliary resistive elements when operating below the balance point. This condition occurs when the building load exceeds the space heating capacity of the heat pump condenser. For HSPF calculations for all heat pumps, see either section 4.2.1, 4.2.2, 4.2.3, or 4.2.4 of this appendix, whichever applies.

For heat pumps with heat comfort controllers (see section 1.2 of this appendix, Definitions), HSPF also accounts for resistive heating contributed when operating above the heat-pump-plus-comfort-controller balance point as a result of maintaining a minimum supply temperature. For heat pumps having a heat comfort controller, see section 4.2.5 of this appendix for the additional steps required for calculating the HSPF.

TABLE 20—STANDARDIZED DESIGN HEATING REQUIREMENTS

[Btu/h]

5,000	50,000
10,000	60,000
15,000	70,000
20,000	80,000
25,000	90,000
30,000	100,000
35,000	110,000
40,000	130,000

4.2.1 Additional steps for calculating the HSPF of a blower coil system heat pump having a single-speed compressor and either a fixed-speed indoor blower or a constant-air-volume-rate indoor blower installed, or a coil-only system heat pump.

$$\text{Equation 4.2.1-1} \qquad \frac{e_h(T_j)}{N} = \frac{X(T_j) * \dot{E}_h(T_j) * \delta(T_j)}{PLF_j} * \frac{n_j}{N}$$

Equation 4.2.1-2 $$\frac{RH(T_j)}{N} = \frac{BL(T_j) - [X(T_j) * \dot{Q}_h(T_j) * \delta(T_j)]}{3.413 \frac{Btu/h}{W}} * \frac{n_j}{N}$$

where:

$$X(T_j) = \begin{Bmatrix} BL(T_j)/\dot{Q}_h(T_j) \\ or \\ 1 \end{Bmatrix}$$

whichever is less; the heating mode load factor for temperature bin j, dimensionless.

whichever is less; the heating mode load factor for temperature bin j, dimensionless.

$\dot{Q}_h(T_j)$ = the space heating capacity of the heat pump when operating at outdoor temperature T_j, Btu/h.

$\dot{E}_h(T_j)$ = the electrical power consumption of the heat pump when operating at outdoor temperature T_j, W.

$\delta(T_j)$ = the heat pump low temperature cut-out factor, dimensionless.

$PLF_j = 1 - \dot{C}_D^h \cdot [1 - X(T_j)]$ the part load factor, dimensionless.

Use Equation 4.2–2 to determine $BL(T_j)$. Obtain fractional bin hours for the heating season, n_j/N, from Table 19.

Determine the low temperature cut-out factor using

Equation 4.2.1-3 $$\delta(T_j) = \begin{Bmatrix} 0, if\ T_j \le T_{off}\ and\ \frac{\dot{Q}_h(T_j)}{3.413 * \dot{E}_h(T_j)} < 1 \\ 1/2, if\ T_{off} < T_j \le T_{on}\ and\ \frac{\dot{Q}_h(T_j)}{3.413 * \dot{E}_h(T_j)} \ge 1 \\ 1, if\ T_j > T_{on}\ and\ \frac{\dot{Q}_h(T_j)}{3.413 * \dot{E}_h(T_j)} \ge 1 \end{Bmatrix}$$

Where:

T_{off} = the outdoor temperature when the compressor is automatically shut off, °F.

T_{on} = the outdoor temperature when the compressor is automatically turned back on, if applicable, following an automatic shut-off, °F.

(If no such temperature exists, T_j is always greater than T_{off} and T_{on}).

Calculate $\dot{Q}_h(T_j)$ and $\dot{E}_h(T_j)$ using,

Equation 4.2.1-4 $$\dot{Q}_h(T_j) = \begin{cases} \dot{Q}_h(17) + \frac{[\dot{Q}_h(47) - \dot{Q}_h(17)] * (T_j - 17)}{47 - 17}, & if\ T_j \ \ge 45\ °F\ or\ T_j \ \le 17\ °F \\ \dot{Q}_h(17) + \frac{[\dot{Q}_h(35) - \dot{Q}_h(17)] * (T_j - 17)}{35 - 17}, & if\ 17\ °F < \ T_j < 45\ °F \end{cases}$$

Equation 4.2.1-5

$$\dot{E}_h(T_j) = \begin{cases} \dot{E}_h(17) + \frac{[\dot{E}_h(47) - \dot{E}_h(17)] * (T_j - 17)}{47 - 17}, & if\ T_j \ \ge 45\ °F\ or\ T_j \ \le 17\ °F \\ \dot{E}_h(17) + \frac{[\dot{E}_h(35) - \dot{E}_h(17)] * (T_j - 17)}{35 - 17}, & if\ 17\ °F < \ T_j < 45\ °F \end{cases}$$

where $\dot{Q}_h(47)$ and $\dot{E}_h(47)$ are determined from the H1 test and calculated as specified in section 3.7 of this appendix; $\dot{Q}_h(35)$ and $\dot{E}_h(35)$ are determined from the H2 test and calculated as specified in section 3.9.1 of this appendix; and $\dot{Q}_h(17)$ and $\dot{E}_h(17)$ are determined from the H3 test and calculated as specified in section 3.10 of this appendix.

4.2.2 Additional steps for calculating the HSPF of a heat pump having a single-speed compressor and a variable-speed, variable-air-volume-rate indoor blower.

The manufacturer must provide information about how the indoor air volume rate or the indoor blower speed varies over the outdoor temperature range of 65 °F to −23 °F. Calculate the quantities

$$\frac{e_h(T_j)}{N} \text{ and } \frac{RH(T_j)}{N}$$

in Equation 4.2–1 as specified in section 4.2.1 of this appendix with the exception of replacing references to the

H1C test and section 3.6.1 of this appendix with the $H1C_1$ test and section 3.6.2 of this appendix. In addition, evaluate the space heating capacity and electrical power consumption of the heat pump $\dot{Q}_h(T_j)$ and $\dot{E}_h(T_j)$ using

Equation 4.2.2-1 $$\dot{Q}_h(T_j) = \dot{Q}_h^{k=1}(T_j) + \frac{\dot{Q}_h^{k=2}(T_j) - \dot{Q}_h^{k=1}(T_j)}{FP_h^{k=2} - FP_h^{k=1}} * \left[FP_h(T_j) - FP_h^{k=1}\right]$$

Equation 4.2.2-2 $$\dot{E}_h(T_j) = \dot{E}_h^{k=1}(T_j) + \frac{\dot{E}_h^{k=2}(T_j) - \dot{E}_h^{k=1}(T_j)}{FP_h^{k=2} - FP_h^{k=1}} * \left[FP_h(T_j) - FP_h^{k=1}\right]$$

where the space heating capacity and electrical power consumption at both low capacity (k=1) and high capacity (k=2) at outdoor temperature Tj are determined using

Equation 4.2.2-3 $$\dot{Q}_h^k(T_j) = \begin{cases} \dot{Q}_h^k(17) + \frac{\left[\dot{Q}_h^k(47) - \dot{Q}_h^k(17)\right] * (T_j - 17)}{47 - 17}, & if\ T_j \geq 45\ °F\ or\ T_j \leq 17\ °F \\ \dot{Q}_h^k(17) + \frac{\left[\dot{Q}_h^k(35) - \dot{Q}_h^k(17)\right] * (T_j - 17)}{35 - 17}, & if\ 17\ °F < T_j < 45\ °F \end{cases}$$

Equation 4.2.2-4

$$\dot{E}_h^k(T_j) = \begin{cases} \dot{E}_h^k(17) + \frac{\left[\dot{E}_h^k(47) - \dot{E}_h^k(17)\right] * (T_j - 17)}{47 - 17}, & if\ T_j \geq 45\ °F\ or\ T_j \leq 17\ °F \\ \dot{E}_h^k(17) + \frac{\left[\dot{E}_h^k(35) - \dot{E}_h^k(17)\right] * (T_j - 17)}{35 - 17}, & if\ 17\ °F < T_j < 45\ °F \end{cases}$$

For units where indoor blower speed is the primary control variable, $FP_h^{k=1}$ denotes the fan speed used during the required $H1_1$ and $H3_1$ tests (see Table 11), $FP_h^{k=2}$ denotes the fan speed used during the required $H1_2$, $H2_2$, and $H3_2$ tests, and $FP_h(T_j)$ denotes the fan speed used by the unit when the outdoor temperature equals T_j. For units where indoor air volume rate is the primary control variable, the three FP_h's are similarly defined only now being expressed in terms of air volume rates rather than fan speeds. Determine $\dot{Q}_h^{k=1}(47)$ and $\dot{E}_h^{k=1}(47)$ from the $H1_1$ test, and $\dot{Q}_h^{k=2}(47)$ and $\dot{E}_h^{k=2}(47)$ from the $H1_2$ test. Calculate all four quantities as specified in section 3.7 of this appendix. Determine $\dot{Q}_h^{k=1}(35)$ and $\dot{E}_h^{k=1}(35)$ as specified in section 3.6.2 of this appendix; determine $\dot{Q}_h^{k=2}(35)$ and $\dot{E}_h^{k=2}(35)$ and from the $H2_2$ test and the calculation specified in section 3.9 of this appendix. Determine $\dot{Q}_h^{k=1}(17)$ and $\dot{E}_h^{k=1}(17$ from the $H3_1$ test, and $\dot{Q}_h^{k=2}(17)$ and $\dot{E}_h^{k=2}(17)$ from the $H3_2$ test. Calculate all four quantities as specified in section 3.10 of this appendix.

4.2.3 Additional Steps for Calculating the HSPF of a Heat Pump Having a Two-Capacity Compressor

The calculation of the Equation 4.2–1 quantities differ depending upon whether the heat pump would operate at low capacity (section 4.2.3.1 of this appendix), cycle between low and high capacity (section 4.2.3.2 of this appendix), or operate at high capacity (sections 4.2.3.3 and 4.2.3.4 of this appendix) in responding to the building load. For heat pumps that lock out low capacity operation at low outdoor temperatures, the manufacturer must supply information regarding the cutoff temperature(s) so that the appropriate equations can be selected.

$$\frac{e_h(T_j)}{N} \text{ and } \frac{RH(T_j)}{N}$$

a. Evaluate the space heating capacity and electrical power consumption of the heat pump when operating at low compressor capacity and outdoor temperature T_j using

$$\dot{Q}_h^{k=1}(T_j) = \begin{cases} \dot{Q}_h^{k=1}(47) + \dfrac{\left[\dot{Q}_h^{k=1}(62) - \dot{Q}_h^{k=1}(47)\right] * (T_j - 47)}{62 - 47}, & if\ T_j \geq 40\ °F \\ \dot{Q}_h^{k=1}(17) + \dfrac{\left[\dot{Q}_h^{k=1}(35) - \dot{Q}_h^{k=1}(17)\right] * (T_j - 17)}{35 - 17}, & if\ 17\ °F \leq T_j < 40\ °F \\ \dot{Q}_h^{k=1}(17) + \dfrac{\left[\dot{Q}_h^{k=1}(47) - \dot{Q}_h^{k=1}(17)\right] * (T_j - 17)}{47 - 17}, & if\ T_j < 17\ °F \end{cases}$$

$$\dot{E}_h^{k=1}(T_j) = \begin{cases} \dot{E}_h^{k=1}(47) + \dfrac{\left[\dot{E}_h^{k=1}(62) - \dot{E}_h^{k=1}(47)\right] * (T_j - 47)}{62 - 47}, & if\ T_j \geq 40\ °F \\ \dot{E}_h^{k=1}(17) + \dfrac{\left[\dot{E}_h^{k=1}(35) - \dot{E}_h^{k=1}(17)\right] * (T_j - 17)}{35 - 17}, & if\ 17\ °F \leq T_j < 40\ °F \\ \dot{E}_h^{k=1}(17) + \dfrac{\left[\dot{E}_h^{k=1}(47) - \dot{E}_h^{k=1}(17)\right] * (T_j - 17)}{47 - 17}, & if\ T_j < 17\ °F \end{cases}$$

b. Evaluate the space heating capacity and electrical power consumption ($\dot{Q}_h^{k=2}(T_j)$ and $\dot{E}_h^{k=2}(T_j)$) of the heat pump when operating at high compressor capacity and outdoor temperature Tj by solving Equations 4.2.2–3 and 4.2.2–4, respectively, for k=2. Determine $\dot{Q}_h^{k=1}(62)$ and $\dot{E}_h^{k=1}(62)$ from the $H0_1$ test, $\dot{Q}_h^{k=1}(47)$ and $\dot{E}_h^{k=1}(47)$ from the $H1_1$ test, and $\dot{Q}_h^{k=2}(47)$ and $\dot{E}_h^{k=2}(47)$ from the $H1_2$ test. Calculate all six quantities as specified in section 3.7 of this appendix. Determine $\dot{Q}_h^{k=2}(35)$ and $\dot{E}_h^{k=2}(35)$ from the $H2_2$ test and, if required as described in section 3.6.3 of this appendix, determine $\dot{Q}_h^{k=1}(35)$ and $\dot{E}_h^{k=1}(35)$ from the $H2_1$ test. Calculate the required 35 °F quantities as specified in section 3.9 of this appendix. Determine $\dot{Q}_h^{k=2}(17)$ and $\dot{E}_h^{k=2}(17)$ from the $H3_2$ test and, if required as described in section 3.6.3 of this appendix, determine $\dot{Q}_h^{k=1}(17)$ and $\dot{E}_h^{k=1}(17)$ from the $H3_1$ test. Calculate the required 17 °F quantities as specified in section 3.10 of this appendix.

4.2.3.1 Steady-state space heating capacity when operating at low compressor capacity is greater than or equal to the building heating load at temperature T_j, $\dot{Q}_h^{k=1}(T_j) \geq BL(T_j)$.

Equation 4.2.3-1 $$\frac{e_h(T_j)}{N} = \frac{X^{k=1}(T_j) * \dot{E}_h^{k=1}(T_j) * \delta(T_j)}{PLF_j} * \frac{n_j}{N}$$

Equation 4.2.3-2 $$\frac{RH(T_j)}{N} = \frac{BL(T_j) * [1 - \delta(T_j)]}{3.413 \frac{Btu/h}{W}} * \frac{n_j}{N}$$

Where:

$X^{k=1}(T_j) = BL(T_j)/\dot{Q}_h^{k=1}(T_j)$, the heating mode low capacity load factor for temperature bin *j*, dimensionless.

$PLF_j = 1 - C_D^h \cdot [\ 1 - X^{k=1}(T_j)\ ]$, the part load factor, dimensionless.

$\delta'(T_j)$ = the low temperature cutoff factor, dimensionless.

Determine the low temperature cut-out factor using

Equation 4.2.3-3 $$\delta(T_j) = \begin{cases} 0, & if\ T_j \leq T_{off} \\ 1/2, & if\ T_{off} < T_j \leq T_{on} \\ 1, & if\ T_j > T_{on} \end{cases}$$

where T_{off} and T_{on} are defined in section 4.2.1 of this appendix. Use the calculations given in section 4.2.3.3 of this appendix, and not the above, if:

a. The heat pump locks out low capacity operation at low outdoor temperatures and

b. T_j is below this lockout threshold temperature.

4.2.3.2 Heat pump alternates between high (k=2) and low (k=1) compressor capacity to satisfy the building heating load at a temperature T_j, $\dot{Q}_h^{k=1}(T_j) < BL(T_j) < \dot{Q}_h^{k=2}(T_j)$.

Calculate $\frac{RH(T_j)}{N}$ using Equation 4.2.3-2. Evaluate $\frac{e_h(T_j)}{N}$ using

$$\frac{e_h(T_j)}{N} = [X^{k=1}(T_j) * \dot{E}_h^{k=1}(T_j) + X^{k=2}(T_j) * \dot{E}_h^{k=2}(T_j)] * \delta(T_j) * \frac{n_j}{N}$$

where:

$$X^{k=1}(T_j) = \frac{\dot{Q}_h^{k=2}(T_j) - BL(T_j)}{\dot{Q}_h^{k=2}(T_j) - \dot{Q}_h^{k=1}(T_j)}$$

$X^{k=2}(T_j) = 1 - X^{k=1}(T_j)$ the heating mode, high capacity load factor for temperature bin $_j$,

dimensionless.

Determine the low temperature cut-out factor, $\delta'(T_j)$, using Equation 4.2.3–3.

4.2.3.3 Heat pump only operates at high (k=2) compressor capacity at temperature T_j and its capacity is greater than the building heating load, $BL(T_j) < \dot{Q}_h^{k=2}(T_j)$. This section applies to units that lock out low compressor capacity operation at low outdoor temperatures.

Calculate $\frac{RH(T_j)}{N}$ using Equation 4.2.3-2. Evaluate $\frac{e_h(T_j)}{N}$ using

$$\frac{e_h(T_j)}{N} = \frac{X^{k=2}(T_j) * \dot{E}_h^{k=2}(T_j) * \delta(T_j)}{PLF_j} * \frac{n_j}{N}$$

where:

$X^{k=2}(T_j) = BL(T_j)/\dot{Q}_h^{k=2}(T_j)$. $PLF_j = 1 - C_D^h(k=2) * [1 - X^{k=2}(T_j)$

If the $H1C_2$ test described in section 3.6.3 and Table 12 of this appendix is not conducted, set C_D^h (k=2) equal to the default value specified in section 3.8.1 of this appendix.

Determine the low temperature cut-out factor, $\delta(T_j)$, using Equation 4.2.3–3.

4.2.3.4 Heat pump must operate continuously at high (k=2) compressor capacity at temperature T_j, $BL(T_j) \geq \dot{Q}_h^{k=2}(T_j)$.

$$\frac{e_h(T_j)}{N} = \dot{E}_h^{k=2}(T_j) * \delta'(T_j) * \frac{n_j}{N} \qquad \frac{RH(T_j)}{N} = \frac{BL(T_j) * [\dot{Q}_h^{k=2}(T_j) * \delta'(T_j)]}{3.413 \frac{Btu/h}{W}} * \frac{n_j}{N}$$

where:

$$\delta'(T_j) = \begin{cases} 0, & if\ T_j \leq T_{off}\ or\ \dfrac{\dot{Q}_h^{k=2}(T_j)}{3.413 * \dot{E}_h^{k=2}(T_j)} < 1 \\ 1/2, & if\ T_{off} < T_j \leq T_{on}\ and\ \dfrac{\dot{Q}_h^{k=2}(T_j)}{3.413 * \dot{E}_h^{k=2}(T_j)} \geq 1 \\ 1, & if\ T_j > T_{on}\ and\ \dfrac{\dot{Q}_h^{k=2}(T_j)}{3.413 * \dot{E}_h^{k=2}(T_j)} \geq 1 \end{cases}$$

4.2.4 Additional Steps for Calculating the HSPF of a Heat Pump Having a Variable-Speed Compressor

Calculate HSPF using Equation 4.2–1. Evaluate the space heating capacity, $\dot{Q}_h^{k=1}(T_j)$, and electrical power consumption, $\dot{E}_h^{k=1}(T_j)$, of the heat pump when operating at minimum compressor speed and outdoor temperature T_j using

Equation 4.2.4-1 $$\dot{Q}_h^{k=1}(T_j) = \dot{Q}_h^{k=1}(47) + \frac{\dot{Q}_h^{k=1}(62) - \dot{Q}_h^{k=1}(47)}{62-47} * (T_j - 47)$$

Equation 4.2.4-2 $$\dot{E}_h^{k=1}(T_j) = \dot{E}_h^{k=1}(47) + \frac{\dot{E}_h^{k=1}(62) - \dot{E}_h^{k=1}(47)}{62-47} * (T_j - 47)$$

where $\dot{Q}_h^{k=1}(62)$ and $\dot{E}_h^{k=1}(62)$ are determined from the $H0_1$ test, $\dot{Q}_h^{k=1}(47)$ and $\dot{E}_h^{k=1}(47)$ are determined from the $H1_1$ test, and all four quantities are calculated as specified in section 3.7 of this appendix.

Evaluate the space heating capacity, $\dot{Q}_h^{k=2}(T_j)$, and electrical power consumption, $\dot{E}_h^{k=2}(T_j)$, of the heat pump when operating at full compressor speed and outdoor temperature T_j by solving Equations 4.2.2–3 and 4.2.2–4, respectively, for k=2. Determine the Equation 4.2.2–3 and 4.2.2–4 quantities $\dot{Q}_h^{k=2}(47)$ and $\dot{E}_h^{k=2}(47)$ from the $H1_2$ test and the calculations specified in section 3.7 of this appendix. Determine $\dot{Q}_h^{k=2}(35)$ and $\dot{E}_h^{k=2}(35)$ from the $H2_2$ test and the calculations specified in section 3.9 of this appendix or, if the $H2_2$ test is not conducted, by conducting the calculations specified in section 3.6.4 of this appendix. Determine $\dot{Q}_h^{k=2}(17)$ and $\dot{E}_h^{k=2}(17)$ from the $H3_2$ test and the calculations specified in section 3.10 of this appendix. Calculate the space heating capacity, $\dot{Q}_h^{k=v}(T_j)$, and electrical power consumption, $\dot{E}_h^{k=v}(T_j)$, of the heat pump when operating at outdoor temperature T_j and the intermediate compressor speed used during the section 3.6.4 $H2_V$ test of this appendix using

Equation 4.2.4–3 $\dot{Q}_h^{k=v}(T_j = \dot{Q}_h^{k=v}(35) + M_Q*(T_j - 35)$

Equation 4.2.4–4 $\dot{E}_h^{k=v}(T_j = \dot{E}_h^{k=v}(35) + M_E * (T_j - 35)$

where $\dot{Q}_h^{k=v}(35)$ and $\dot{E}_h^{k=v}(35)$ are determined from the $H2_V$ test and calculated as specified in section 3.9 of this appendix. Approximate the slopes of the k=v intermediate speed heating capacity and electrical power input curves, M_Q and M_E, as follows:

$$M_Q = \left[\frac{\dot{Q}_h^{k=1}(62) - \dot{Q}_h^{k=1}(47)}{62-47} * (1 - N_Q)\right] + \left[N_Q * \frac{\dot{Q}_h^{k=2}(35) - \dot{Q}_h^{k=2}(17)}{35-17}\right]$$

$$M_E = \left[\frac{\dot{E}_h^{k=1}(62) - \dot{E}_h^{k=1}(47)}{62-47} * (1 - N_E)\right] + \left[N_E * \frac{\dot{E}_h^{k=2}(35) - \dot{E}_h^{k=2}(17)}{35-17}\right]$$

where,

$$N_Q = \frac{\dot{Q}_h^{k=v}(35) - \dot{Q}_h^{k=1}(35)}{\dot{Q}_h^{k=2}(35) - \dot{Q}_h^{k=1}(35)} \qquad N_E = \frac{\dot{E}_h^{k=v}(35) - \dot{E}_h^{k=1}(35)}{\dot{E}_h^{k=2}(35) - \dot{E}_h^{k=1}(35)}$$

Use Equations 4.2.4-1 and 4.2.4-2, respectively, to calculate $\dot{Q}_h^{k=1}(35)$ and $\dot{E}_h^{k=1}(35)$.

The calculation of Equation 4.2-1 quantities $\frac{RH(T_j)}{N}$ and $\frac{e_h(T_j)}{N}$ differs depending upon whether the heat pump would operate at minimum speed (section 4.2.4.1 of this appendix), operate at an intermediate speed (section 4.2.4.2 of this appendix), or operate at full speed (section 4.2.4.3 of this appendix) in responding to the building load.

4.2.4.1 Steady-state space heating capacity when operating at minimum compressor speed is greater than or equal to the building heating load at temperature T_j, $\dot{Q}_h^{k=1}(T_j \geq BL(T_j)$.

Evaluate the Equation 4.2–1 quantities

$$\frac{RH(T_j)}{N} \quad \text{and} \quad \frac{e_h(T_j)}{N}$$

as specified in section 4.2.3.1 of this appendix. Except now use Equations 4.2.4–1 and 4.2.4–2 to evaluate $\dot{Q}_h^{k=1}(T_j)$ and $\dot{E}_h^{k=1}(T_j)$, respectively, and replace section 4.2.3.1 references to ''low capacity'' and section 3.6.3 of this appendix with ''minimum speed'' and section 3.6.4 of this appendix. Also, the last sentence of section 4.2.3.1 of this appendix does not apply.

4.2.4.2 Heat pump operates at an intermediate compressor speed (k=i) in order to match the building heating load at a temperature T_j, $\dot{Q}_h^{k=1}(T_j) < BL(T_j) < \dot{Q}_h^{k=2}(T_j)$.

Calculate $\frac{RH(T_j)}{N}$ using Equation 4.2.3-2 while evaluating $\frac{e_h(T_j)}{N}$ using,

$$\frac{e_h(T_j)}{N} = \dot{E}_h^{k=i}(T_j) * \delta(T_j) * \frac{n_j}{N}$$

where:

$$\dot{E}_h^{k=i}(T_j) = \frac{\dot{Q}_h^{k=i}(T_j)}{3.413\frac{Btu/h}{W} * COP^{k=i}(T_j)}$$

and $\delta(T_j)$ is evaluated using Equation 4.2.3–3 while,

$\dot{Q}_h^{k=i}(T_j) = BL(T_j)$, the space heating capacity delivered by the unit in matching the building load at temperature (T_j), Btu/h. The matching occurs with the heat pump operating at compressor speed k=i.

$COP^{k=i}(T_j)$ = the steady-state coefficient of performance of the heat pump when operating at compressor speed k=i and temperature T_j, dimensionless.

For each temperature bin where the heat pump operates at an intermediate compressor speed, determine $COP^{k=i}(T_j)$ using,

$COP^{k=i}(T_j) = A + B \cdot T_j + C \cdot T_j$.

For each heat pump, determine the coefficients A, B, and C by conducting the following calculations once:

$$D = \frac{T_3^2 - T_4^2}{T_{vh}^2 - T_4^2} \qquad B = \frac{COP^{k=2}(T_4) - COP^{k=1}(T_3) - D*[COP^{k=2}(T_4) - COP^{k=v}(T_{vh})]}{T_4 - T_3 - D*(T_4 - T_{vh})}$$

$$C = \frac{COP^{k=2}(T_4) - COP^{k=2}(T_3) - B*(T_4 - T_3)}{T_4^2 - T_3^2} \qquad A = COP^{k=2}(T_4) - B * T_4 - C * T_4^2$$

Where:

T_3 = the outdoor temperature at which the heat pump, when operating at minimum compressor speed, provides a space heating capacity that is equal to the building load ($\dot{Q}_h^{k=1}(T_3) = BL(T_3)$), °F. Determine T_3 by equating Equations 4.2.4–1 and 4.2–2 and solving for outdoor temperature.

T_{vh} = the outdoor temperature at which the heat pump, when operating at the intermediate compressor speed used during the section 3.6.4 $H2_V$ test of this appendix, provides a space heating capacity that is equal to the building load ($\dot{Q}_h^{k=v}(T_{vh}) = BL(T_{vh})$), °F. Determine T_{vh} by equating Equations 4.2.4–3 and 4.2–2 and solving for outdoor temperature.

T_4 = the outdoor temperature at which the heat pump, when operating at full compressor speed, provides a space heating capacity that is equal to the building load ($\dot{Q}_h^{k=2}(T_4) = BL(T_4)$), °F. Determine T_4 by equating Equations 4.2.2–3 (k=2) and 4.2–2 and solving for outdoor temperature.

$$COP^{k=1}(T_3) = \frac{\dot{Q}_h^{k=1}(T_3)[Eqn.\,4.2.4-1, substituting\ T_3\ for\ T_j]}{3.413\frac{\dot{Btu}/h}{W} * E_h^{k=1}(T_3)[Eqn.\,4.2.4-2, substituting\ T_3\ for\ T_j]}$$

$$COP^{k=v}(T_{vh}) = \frac{\dot{Q}_h^{k=v}(T_{vh})[Eqn.\,4.2.4-3, substituting\ T_{vh}\ for\ T_j]}{3.413\frac{Btu/h}{W} * \dot{E}_h^{k=v}(T_{vh})[Eqn.\,4.2.4-4, substituting\ T_{vh}\ for\ T_j]}$$

$$COP^{k=2}(T_4) = \frac{\dot{Q}_h^{k=2}(T_4)[Eqn.\,4.2.2-3, substituting\ T_4\ for\ T_j]}{3.413\frac{Btu/h}{W} * \dot{E}_h^{k=2}(T_4)[Eqn.\,4.2.2-4, substituting\ T_4\ for\ T_j]}$$

For multiple-split heat pumps (only), the following procedures supersede the above requirements for calculating $COP_h^{k=i}(T_j)$. For each temperature bin where $T_3 > T_j > T_{vh}$,

$$COP_h^{k=i}(T_j) = COP_h^{k=1}(T_3) + \frac{COP_h^{k=v}(T_{vh}) - COP_h^{k=1}(T_3)}{T_{vh} - T_3} * (T_j - T_3)$$

For each temperature bin where $T_{vh} \geq T_j > T_4$,

$$COP_h^{k=i}(T_j) = COP_h^{k=v}(T_{vh}) + \frac{COP_h^{k=2}(T_4) - COP_h^{k=v}(T_{vh})}{T_4 - T_{vh}} * (T_j - T_{vh})$$

4.2.4.3 Heat pump must operate continuously at full (k=2) compressor speed at temperature T_j, $BL(T_j) \geq \dot{Q}_h^{k=2}(T_j)$. Evaluate the Equation 4.2–1 quantities

$$\frac{RH(T_j)}{N} \quad \text{and} \quad \frac{e_h(T_j)}{N}$$

as specified in section 4.2.3.4 of this appendix with the understanding that $\dot{Q}_h^{k=2}(T_j)$ and $\dot{E}_h^{k=2}(T_j)$ correspond to full compressor speed operation and are derived from the results of the specified section 3.6.4 tests of this appendix.

4.2.5 Heat Pumps Having a Heat Comfort Controller

Heat pumps having heat comfort controllers, when set to maintain a typical minimum air delivery temperature, will cause the heat pump condenser to operate less because of a greater contribution from the resistive elements. With a conventional heat pump, resistive heating is only initiated if the heat pump condenser cannot meet the building load (*i.e.,* is delayed until a second stage call from the indoor thermostat). With a heat comfort controller, resistive heating can occur even though the heat pump condenser has adequate capacity to meet the building load (*i.e.,* both on during a first stage call from the indoor thermostat). As a result, the outdoor temperature where the heat pump compressor no longer cycles (*i.e.,* starts to run continuously), will be lower than if the heat pump did not have the heat comfort controller.

4.2.5.1 Blower coil system heat pump having a heat comfort controller: Additional steps for calculating the HSPF of a heat pump having a single-speed compressor and either a fixed-speed indoor blower or a constant-air-volume-rate indoor blower installed, or a coil-only system heat pump.

Calculate the space heating capacity and electrical power of the heat pump without the heat comfort controller being active as specified in section 4.2.1 of this appendix (Equations 4.2.1–4 and 4.2.1–5) for each outdoor bin temperature, T_j, that is listed in Table 19. Denote these capacities and electrical powers by using the subscript ''hp'' instead of ''h.'' Calculate the mass flow rate (expressed in pounds-mass of dry air per hour) and the specific heat of the indoor air (expressed in $Btu/lbm_{da} \cdot °F$) from the results of the H1 test using:

$$\dot{m}_{da} = \overline{\dot{V}_s} * 0.075\frac{lbm_{da}}{ft^3} * \frac{60_{min}}{hr} = \frac{\overline{\dot{V}}_{mx}}{v_n' * [1 + W_n]} * \frac{60_{min}}{hr} = \frac{\overline{\dot{V}}_{mx}}{v_n} * \frac{60_{min}}{hr}$$

where $\overline{\dot{V}}_s$, $\overline{\dot{V}}_{mx}$, v'_n (or v_n), and W_n are defined following Equation 3–1. For each outdoor bin temperature listed in Table 19, calculate the nominal temperature of the air leaving the heat pump condenser coil using,

$$T_0(T_j) = 70°\text{F} + \frac{\dot{Q}_{hp}(T_j)}{\dot{m}_{da} * C_{p,da}}$$

Evaluate $e_h(T_j/N)$, $RH(T_j)/N$, $X(T_j)$, PLF_j, and $\delta(T_j)$ as specified in section 4.2.1 of this appendix. For each bin calculation, use the space heating capacity and electrical power from Case 1 or Case 2, whichever applies.

Case 1. For outdoor bin temperatures where $T_o(T_j)$ is equal to or greater than T_{CC} (the maximum supply temperature determined according to section 3.1.9 of this appendix), determine $\dot{Q}_h(T_j)$ and $\dot{E}_h(T_j)$ as specified in section 4.2.1 of this appendix (*i.e.,* $\dot{Q}_h(T_j) = \dot{Q}_{hp}(T_j)$ and $\dot{E}_{hp}(T_j) = \dot{E}_{hp}(T_j)$).

Note: Even though $T_o(T_j) \geq T_{cc}$, resistive heating may be required; evaluate Equation 4.2.1–2 for all bins.

Case 2. For outdoor bin temperatures where $T_o(T_j) > T_{cc}$, determine $\dot{Q}_h(T_j)$ and $\dot{E}_h(T_j)$ using $\dot{Q}_h(T_j) = \dot{Q}_{hp}(T_j) + \dot{Q}_{CC}(T_j)$ $\dot{E}_h(T_j) = \dot{E}_{hp}(T_j) + \dot{E}_{CC}(T_j)$ where:

$$\dot{Q}_{CC}(T_j) = \dot{m}_{da} * C_{p,da} * [T_{CC} - T_0(T_j)] \qquad \dot{E}_{CC}(T_j) = \frac{\dot{Q}_{CC}(T_j)}{3.413\frac{Btu/h}{W}}$$

Note: Even though $T_o(T_j) < T_{cc}$, additional resistive heating may be required; evaluate Equation 4.2.1–2 for all bins.

4.2.5.2 Heat pump having a heat comfort controller: Additional steps for calculating the HSPF of a heat pump having a single-speed compressor and a variable-speed, variable-air-volume-rate indoor blower.

Calculate the space heating capacity and electrical power of the heat pump without the heat comfort controller being active as specified in section 4.2.2 of this appendix (Equations 4.2.2–1 and 4.2.2–2) for each outdoor bin temperature, T_j, that is listed in Table 19. Denote these capacities and electrical powers by using the subscript ''hp'' instead of ''h.'' Calculate the mass flow rate (expressed in pounds-mass of dry air per hour) and the specific heat of the indoor air (expressed in $Btu/lbm_{da} \cdot °F$) from the results of the $H1_2$ test using:

$$\dot{m}_{da} = \overline{\dot{V}_s} * 0.075\frac{lbm_{da}}{ft^3} * \frac{60_{min}}{hr} = \frac{\overline{\dot{V}}_{mx}}{v_n' * [1 + W_n]} * \frac{60_{min}}{hr} = \frac{\overline{\dot{V}}_{mx}}{v_n} * \frac{60_{min}}{hr}$$

$$C_{p,da} = 0.24 + 0.444 * W_n$$

where $\overline{\dot{V}}_S$, $\overline{\dot{V}}_{mx}$, v'_n (or v_n), and W_n are defined following Equation 3–1. For each outdoor bin temperature listed in Table 19, calculate the nominal temperature of the air leaving the heat pump condenser coil using,

$$T_0(T_j) = 70°\text{F} + \frac{\dot{Q}_{hp}(T_j)}{\dot{m}_{da} * C_{p,da}}$$

Evaluate $e_h(T_j)/N$, $RH(T_j)/N$, $X(T_j)$, PLF_j, and $\delta(T_j)$ as specified in section 4.2.1 of this appendix with the exception of replacing references to the H1C test and section 3.6.1 of this appendix with the $H1C_1$ test and section 3.6.2 of this appendix. For each bin calculation, use the space heating capacity and electrical power from Case 1 or Case 2, whichever applies.

Case 1. For outdoor bin temperatures where $T_o(T_j)$ is equal to or greater than T_{CC} (the maximum supply temperature determined according to section 3.1.9 of this appendix), determine $\dot{Q}_h(T_j)$ and $\dot{E}_h(T_j)$ as specified in section 4.2.2 of this appendix (*i.e.* $\dot{Q}_h(T_j) = \dot{Q}_{hp}(T_j)$ and $\dot{E}_h(T_j) = \dot{E}_{hp}(T_j)$).

Note: Even though $T_o(T_j) \geq T_{CC,}$ resistive heating may be required; evaluate Equation 4.2.1–2 for all bins.

Case 2. For outdoor bin temperatures where $T_o(T_j) < T_{CC}$, determine $\dot{Q}_h(T_j)$ and $\dot{E}_h(T_j)$ using $\dot{Q}_h(T_j) = \dot{Q}_{hp}(T_j) + \dot{Q}_{CC}(T_j)$ $\dot{E}_h(T_j) = \dot{E}_{hp}(T_j) + \dot{E}_{CC}(T_j)$

$$\dot{Q}_{CC}(T_j) = \dot{m}_{da} * C_{p,da} * [T_{CC} - T_0(T_j)] \qquad \dot{E}_{CC}(T_j) = \frac{\dot{Q}_{CC}(T_j)}{3.413\frac{Btu/h}{W}}$$

Note: Even though $T_o(T_j) < T_{cc}$, additional resistive heating may be required; evaluate Equation 4.2.1–2 for all bins.

4.2.5.3 Heat pumps having a heat comfort controller: Additional steps for calculating the HSPF of a heat pump having a two-capacity compressor.

Calculate the space heating capacity and electrical power of the heat pump without the heat comfort controller being active as specified in section 4.2.3 of this appendix for both high and low capacity and at each outdoor bin temperature, T_j, that is listed in Table 19. Denote these capacities and electrical powers by using the subscript ''hp'' instead of ''h.'' For the low capacity case, calculate the mass flow rate (expressed in pounds-mass of dry air per hour) and the specific heat of the indoor air (expressed in $Btu/lbm_{da} \cdot °F$) from the results of the $H1_1$ test using:

$$\dot{m}_{da}^{k=1} = \overline{\dot{V}_s} * 0.075 \frac{lbm_{da}}{ft^3} * \frac{60_{min}}{hr} = \frac{\overline{\dot{V}}_{mx}}{v_n' * [1 + W_n]} * \frac{60_{min}}{hr} = \frac{\overline{\dot{V}}_{mx}}{v_n} * \frac{60_{min}}{hr}$$

$$C_{p,da}^{k=1} = 0.24 + 0.444 * W_n$$

where $\overline{V}_s$, $\overline{V}_{mx}$, v'_n (or v_n), and W_n are defined following Equation 3–1. For each outdoor bin temperature listed in Table 19, calculate the nominal temperature of the air leaving the heat pump condenser coil when operating at low capacity using,

$$T_0^{k=1}(T_j) = 70°\text{F} + \frac{\dot{Q}_{hp}^{k=1}(T_j)}{\dot{m}_{da}^{k=1} * C_{p,da}^{k=1}}$$

Repeat the above calculations to determine the mass flow rate ($\dot{m}_{da}^{k=2}$) and the specific heat of the indoor air ($C_{p,da}^{k=2}$) when operating at high capacity by using the results of the $H1_2$ test. For each outdoor bin temperature listed in Table 19, calculate the nominal temperature of the air leaving the heat pump condenser coil when operating at high capacity using,

$$T_0^{k=2}(T_j) = 70°\text{F} + \frac{\dot{Q}_{hp}^{k=2}(T_j)}{\dot{m}_{da}^{k=2} * C_{p,da}^{k=2}}$$

Evaluate $e_h(T_j)/N$, $RH(T_j)/N$, $X^{k=1}(T_j)$, and/or $X^{k=2}(T_j)$, PLF_j, and $\delta'(T_j)$ or $\delta''(T_j)$ as specified in section 4.2.3.1. 4.2.3.2, 4.2.3.3, or 4.2.3.4 of this appendix, whichever applies, for each temperature bin. To evaluate these quantities, use the low-capacity space heating capacity and the low-capacity electrical power from Case 1 or Case 2, whichever applies; use the high-capacity space heating capacity and the high-capacity electrical power from Case 3 or Case 4, whichever applies.

Case 1. For outdoor bin temperatures where $T_o^{k=1}(T_j)$ is equal to or greater than T_{CC} (the maximum supply temperature determined according to section 3.1.9 of this appendix), determine $\dot{Q}_h^{k=1}(T_j)$ and $\dot{E}_h^{k=1}(T_j)$ as specified in section 4.2.3 of this appendix (*i.e.,* $\dot{Q}_h^{k=1}(T_j) = \dot{Q}_{hp}^{k=1}(T_j)$ and $\dot{E}_h^{k=1}(T_j) = \dot{E}_{hp}^{k=1}(T_j)$.

Note: Even though $T_o^{k=1}(T_j) \geq T_{CC}$, resistive heating may be required; evaluate $RH(T_j)/N$ for all bins.

Case 2. For outdoor bin temperatures where $T_o^{k=1}(T_j) < T_{CC}$, determine $\dot{Q}_h^{k=1}(T_j)$ and $\dot{E}_h^{k=1}(T_j)$ using $\dot{Q}_h^{k=1}(T_j) = \dot{Q}_{hp}^{k=1}(T_j) + \dot{Q}_{CC}^{k=1}(T_j)$ $\dot{E}_h^{k=1}(T_j) = \dot{E}_{hp}^{k=1}(T_j) + \dot{E}_{CC}^{k=1}(T_j)$ where,

$$\dot{Q}_{CC}(T_j) = \dot{m}_{da} * C_{p,da} * [T_{CC} - T_0(T_j)] \qquad \dot{E}_{CC}(T_j) = \frac{\dot{Q}_{CC}(T_j)}{3.413\frac{Btu/h}{W}}$$

Note: Even though $T_o^{k=1}(T_j) \geq T_{cc}$, additional resistive heating may be required; evaluate $RH(T_j)/N$ for all bins.

Case 3. For outdoor bin temperatures where $T_o^{k=2}(T_j)$ is equal to or greater than T_{CC}, determine $\dot{Q}_h^{k=2}(T_j)$ and $\dot{E}_h^{k=2}(T_j)$ as specified in section 4.2.3 of this appendix (*i.e.,* $\dot{Q}_h^{k=2}(T_j) = \dot{Q}_{hp}^{k=2}(T_j)$ and $\dot{E}_h^{k=2}(T_j) = \dot{E}_{hp}^{k=2}(T_j)$).

Note: Even though $T_o^{k=2}(T_j) < T_{CC}$, resistive heating may be required; evaluate $RH(T_j)/N$ for all bins.

Case 4. For outdoor bin temperatures where $T_o^{k=2}(T_j) < T_{CC}$, determine $\dot{Q}_h^{k=2}(T_j)$ and $\dot{E}_h^{k=2}(T_j)$ using $\dot{Q}_h^{k=2}(T_j) = \dot{Q}_{hp}^{k=2}(T_j) + \dot{Q}_{CC}^{k=2}(T_j)$ $\dot{E}_h^{k=2}(T_j) = \dot{E}_{hp}^{k=2}(T_j) + \dot{E}_{CC}^{k=2}(T_j)$ where,

$$\dot{Q}_{CC}^{k=2}(T_j) = \dot{m}_{da}^{k=2} * C_{p,da}^{k=2} * [T_{CC} - T_0^{k=2}(T_j)] \qquad \dot{E}_{CC}^{k=2}(T_j) = \frac{\dot{Q}_{CC}^{k=2}(T_j)}{3.413\frac{Btu/h}{W}}$$

Note: Even though $T_o^{k=2}(T_j) < T_{cc}$, additional resistive heating may be required; evaluate $RH(T_j)/N$ for all bins.

4.2.5.4 Heat pumps having a heat comfort controller: Additional steps for calculating the HSPF of a heat pump having a variable-speed compressor. [Reserved]

4.2.6 Additional steps for calculating the HSPF of a heat pump having a triple-capacity compressor.

The only triple-capacity heat pumps covered are triple-capacity, northern heat pumps. For such heat pumps, the calculation of the Eq. 4.2–1 quantities

$$\frac{RH(T_j)}{N} \quad \text{and} \quad \frac{e_h(T_j)}{N}$$

differ depending on whether the heat pump would cycle on and off at low capacity (section 4.2.6.1 of this appendix), cycle on and off at high capacity (section 4.2.6.2 of this appendix), cycle on and off at booster capacity (section 4.2.6.3 of this appendix), cycle between low and high capacity (section 4.2.6.4 of this appendix), cycle between high and booster capacity (section 4.2.6.5 of this appendix), operate continuously at low capacity (4.2.6.6 of this appendix), operate continuously at high capacity (section 4.2.6.7 of this appendix), operate continuously at booster capacity (section 4.2.6.8 of this appendix), or heat solely using resistive

heating (also section 4.2.6.8 of this appendix) in responding to the building load. As applicable, the manufacturer must supply information regarding the outdoor temperature range at which each stage of compressor capacity is active. As an informative example, data may be submitted in this manner: At the low (k = 1) compressor capacity, the outdoor temperature range of operation is 40 °F ≤ T ≤ 65 °F; At the high (k = 2) compressor capacity, the outdoor temperature range of operation is 20 °F ≤ T ≤ 50 °F; At the booster (k = 3) compressor capacity, the outdoor temperature range of operation is −20 °F ≤ T ≤ 30 °F.

a. Evaluate the space heating capacity and electrical power consumption of the heat pump when operating at low compressor capacity and outdoor temperature Tj using the equations given in section 4.2.3 of this appendix for $\dot{Q}_h^{k=1}(T_j)$ and $\dot{E}_h^{k=1}(T_j)$) In evaluating the section 4.2.3 equations, Determine $\dot{Q}_h^{k=1}(62)$ and $\dot{E}_h^{k=1}(62)$ from the $H0_1$ test, $\dot{Q}_h^{k=1}(47)$ and $\dot{E}_h^{k=1}(47)$ from the $H1_1$ test, and $\dot{Q}_h^{k=2}(47)$ and $\dot{E}_h^{k=2}(47)$ from the $H1_2$ test. Calculate all four quantities as specified in section 3.7 of this appendix. If, in accordance with section 3.6.6 of this appendix, the $H3_1$ test is conducted, calculate $\dot{Q}_h^{k=1}(17)$ and $\dot{E}_h^{k=1}(17)$ as specified in section 3.10 of this appendix and determine $\dot{Q}_h^{k=1}(35)$ and $\dot{E}_h^{k=1}(35)$ as specified in section 3.6.6 of this appendix.

b. Evaluate the space heating capacity and electrical power consumption ($\dot{Q}_h^{k=2}(T_j)$ and $\dot{E}_h^{k=2}(T_j)$) of the heat pump when operating at high compressor capacity and outdoor temperature Tj by solving Equations 4.2.2–3 and 4.2.2–4, respectively, for k = 2. Determine $\dot{Q}_h^{k=1}(62)$ and $\dot{E}_h^{k=1}(62)$ from the $H0_1$ test, $\dot{Q}_h^{k=1}(47)$ and $\dot{E}_h^{k=1}(47)$ from the $H1_1$ test, and $\dot{Q}_h^{k=2}(47)$ and $\dot{E}_h^{k=2}(47)$ from the $H1_2$ test, evaluated as specified in section 3.7 of this appendix. Determine the equation input for $\dot{Q}_h^{k=2}(35)$ and $\dot{E}_h^{k=2}(35)$ from the $H2_2$, evaluated as specified in section 3.9.1 of this appendix. Also, determine $\dot{Q}_h^{k=2}(17)$ and $\dot{E}_h^{k=2}(17)$ from the $H3_2$ test, evaluated as specified in section 3.10 of this appendix.

c. Evaluate the space heating capacity and electrical power consumption of the heat pump when operating at booster compressor capacity and outdoor temperature Tj using

$$\dot{Q}_h^{k=3}(T_j) = \begin{cases} \dot{Q}_h^{k=3}(17) + \dfrac{\left[\dot{Q}_h^{k=3}(35) - \dot{Q}_h^{k=3}(17)\right] * (T_j - 17)}{35 - 17}, & if\ 17\ °\mathrm{F} < T_j \leq 45\ °\mathrm{F} \\ \dot{Q}_h^{k=3}(2) + \dfrac{\left[\dot{Q}_h^{k=3}(17) - \dot{Q}_h^{k=3}(2)\right] * (T_j - 2)}{17 - 2}, & if\ T_j \leq 17\ °\mathrm{F} \end{cases}$$

$$\dot{E}_h^{k=3}(T_j) = \begin{cases} \dot{E}_h^{k=3}(17) + \dfrac{\left[\dot{E}_h^{k=3}(35) - \dot{E}_h^{k=3}(17)\right] * (T_j - 17)}{35 - 17}, & if\ 17\ °\mathrm{F} < T_j \leq 45\ °\mathrm{F} \\ \dot{E}_h^{k=3}(2) + \dfrac{\left[\dot{E}_h^{k=3}(17) - \dot{E}_h^{k=3}(2)\right] * (T_j - 2)}{17 - 2}, & if\ T_j \leq 17\ °\mathrm{F} \end{cases}$$

Determine $\dot{Q}_h^{k=3}(17)$ and $\dot{E}_h^{k=3}(17)$ from the $H3_3$ test and determine $\dot{Q}_h^{k=2}(2)$ and $\dot{E}_h^{k=3}(2)$ from the $H4_3$ test. Calculate all four quantities as specified in section 3.10 of this appendix. Determine the equation input for $\dot{Q}_h^{k=3}(35)$ and $\dot{E}_h^{k=3}(35)$ as specified in section 3.6.6 of this appendix.

4.2.6.1 Steady-state space heating capacity when operating at low compressor capacity is greater than or equal to the building heating load at temperature T_j, $\dot{Q}_h^{k=1}(T_j) \geq BL(T_j)$., and the heat pump permits low compressor capacity at T_j.

Evaluate the quantities

$$\frac{RH(T_j)}{N} \quad \text{and} \quad \frac{e_h(T_j)}{N}$$

using Eqs. 4.2.3–1 and 4.2.3–2, respectively. Determine the equation inputs $X^{k=1}(T_j)$, PLF_j, and $\delta'(T_j)$ as specified in section 4.2.3.1 of this appendix. In calculating the part load factor, PLF_j, use the low-capacity cyclic-degradation coefficient $C_D{}^h$, [or equivalently, $C_D{}^h(k = 1)$] determined in accordance with section 3.6.6 of this appendix.

4.2.6.2 Heat pump only operates at high (k = 2) compressor capacity at temperature T_j and its capacity is greater than or equal to the building heating load, $BL(T_j) < \dot{Q}_h^{k=2}(T_j)$.

Evaluate the quantities

$$\frac{RH(T_j)}{N} \quad \text{and} \quad \frac{e_h(T_j)}{N}$$

as specified in section 4.2.3.3 of this appendix. Determine the equation inputs $X^{k=2}(T_j)$, PLF_j, and $\delta'(T_j)$ as specified in section 4.2.3.3 of this appendix. In calculating the part load factor, PLF_j, use the high-capacity cyclic-degradation coefficient, $C_D{}^h(k = 2)$ determined in accordance with section 3.6.6 of this appendix.

4.2.6.3 Heat pump only operates at high (k = 3) compressor capacity at temperature T_j and its capacity is greater than or equal to the building heating load, $BL(T_j) \leq \dot{Q}_h^{k=3}(T_j)$.

Calculate $\frac{RH(T_j)}{N}$ and using Eq. 4.2.3-2. Evaluate $\frac{e_h(T_j)}{N}$ using

$$\frac{e_h(T_j)}{N} = \frac{X^{k=3}(T_j) * \dot{E}_h^{k=3}(T_j) * \delta'(T_j)}{PLF_j} * \frac{n_j}{N}$$

where

$X^{k=3}(T_j) = BL(T_j)/\dot{Q}_h^{k=3}(T_j)$ and $PLF_j = 1 - C_D^h(k = 3) * [1 - X^{k=3}(T_j)]$

Determine the low temperature cut-out factor, $\delta'(T_j)$, using Eq. 4.2.3–3. Use the booster-capacity cyclic-degradation coefficient, $C_D^h(k = 3)$ determined in accordance with section 3.6.6 of this appendix.

4.2.6.4 Heat pump alternates between high (k = 2) and low (k = 1) compressor capacity to satisfy the building heating load at a temperature T_j, $\dot{Q}_h^{k=1}(T_j) < BL(T_j) < \dot{Q}_h^{k=2}(T_j)$.

Evaluate the quantities

$$\frac{RH(T_j)}{N} \quad \text{and} \quad \frac{e_h(T_j)}{N}$$

as specified in section 4.2.3.2 of this appendix. Determine the equation inputs $X^{k=1}(T_j)$, $X^{k=2}(T_j)$, and $\delta'(T_j)$ as specified in section 4.2.3.2 of this appendix.

4.2.6.5 Heat pump alternates between high (k = 2) and booster (k = 3) compressor capacity to satisfy the building heating load at a temperature T_j, $\dot{Q}_h^{k=2}(T_j) < BL(T_j) < \dot{Q}_h^{k=3}(T_j)$.

Calculate $\frac{RH(T_j)}{N}$ and using Eq. 4.2.3-2. Evaluate $\frac{e_h(T_j)}{N}$ using

$$\frac{e_h(T_j)}{N} = [X^{k=2}(T_j) * \dot{E}_h^{k=2}(T_j) + X^{k=3}(T_j) * \dot{E}_h^{k=3}(T_j)] * \delta'(T_j) * \frac{n_j}{N}$$

where:

$$X^{k=2}(T_j) = \frac{\dot{Q}_h^{k=3}(T_j) - BL(T_j)}{\dot{Q}_h^{k=3}(T_j) - \dot{Q}_h^{k=2}(T_j)}$$

and $X^{k=3}(T_j) = X^{k=2}(T_j)$ = the heating mode, booster capacity load factor for temperature bin j, dimensionless. Determine the low temperature cut-out factor, $\delta'(T_j)$, using Eq. 4.2.3–3.

4.2.6.6 Heat pump only operates at low (k = 1) capacity at temperature T_j and its capacity is less than the building heating load, $BL(T_j) > \dot{Q}_h^{k=1}(T_j)$.

$$\frac{e_h(T_j)}{N} = \dot{E}_h^{k=1}(T_j) * \delta'(T_j) * \frac{n_j}{N} \quad \text{and} \frac{RH(T_j)}{N} = \frac{BL(T_j) - [\dot{Q}_h^{k=1}(T_j) * \delta\prime(T_j)]}{3.413\frac{Btu/h}{W}} * \frac{n_j}{N}$$

where the low temperature cut-out factor, $\delta'(Tj)$, is calculated using Eq. 4.2.3–3.

4.2.6.7 Heat pump only operates at high (k = 2) capacity at temperature Tj and its capacity is less than the building heating load, $BL(Tj) > \dot{Q}_h^{k=2}(T_j)$.

Evaluate the quantities

$$\frac{RH(T_j)}{N} \quad \text{and} \quad \frac{e_h(T_j)}{N}$$

as specified in section 4.2.3.4 of this appendix. Calculate $\delta''(Tj)$ using the equation given in section 4.2.3.4 of this appendix.

4.2.6.8 Heat pump only operates at booster (k = 3) capacity at temperature Tj and its capacity is less than the building heating load, $BL(T_j) > \dot{Q}_h^{k=3}(T_j)$ or the system converts to using only resistive heating.

$$\frac{e_h(T_j)}{N} = \dot{E}_h^{k=1}(T_j) * \delta'(T_j) * \frac{n_j}{N} \quad \text{and} \frac{RH(T_j)}{N} = \frac{BL(T_j) - [\dot{Q}_h^{k=1}(T_j) * \delta\prime(T_j)]}{3.413\frac{Btu/h}{W}} * \frac{n_j}{N}$$

where $\delta''(Tj)$ is calculated as specified in section 4.2.3.4 of this appendix if the heat pump is operating at its booster compressor capacity. If the heat pump system converts to using only resistive heating at outdoor temperature T_j, set $\delta'(T_j)$ equal to zero.

4.2.7 Additional steps for calculating the HSPF of a heat pump having a single indoor unit with multiple indoor blowers. The calculation of the Eq. 4.2–1 quantities $e_h(T_j)/N$ and $RH(T_j)/N$ are evaluated as specified in the applicable subsection.

4.2.7.1 For multiple indoor blower heat pumps that are connected to a singular, single-speed outdoor unit:

a. Calculate the space heating capacity, $\dot{Q}_h^{k=1}(Tj)$, and electrical power consumption, $\dot{E}_h^{k=1}(Tj)$, of the heat pump when operating at the heating minimum air volume rate and outdoor temperature T_j using Eqs. 4.2.2–3 and 4.2.2–4, respectively. Use these same equations to calculate the space heating capacity, $\dot{Q}_h^{k=2}(Tj)$ and electrical power consumption, $\dot{E}_h^{k=2}(Tj)$, of the test unit when operating at the heating full-load air volume rate and outdoor temperature T_j. In evaluating Eqs. 4.2.2–3 and 4.2.2– 4, determine the quantities $\dot{Q}_h^{k=1}(47)$ and $\dot{E}_h^{k=1}(47)$ from the $H1_1$ test; determine $\dot{Q}_h^{k=2}(47)$ and $\dot{E}_h^{k=2}(47)$ from the $H1_2$ test. Evaluate all four quantities according to section 3.7 of this appendix. Determine the quantities $\dot{Q}_h^{k=1}(35)$ and $\dot{E}_h^{k=1}(35)$ as specified in section 3.6.2 of this appendix. Determine $\dot{Q}_h^{k=2}(35)$ and $\dot{E}_h^{k=2}(35)$ from the $H2_2$ frost accumulation test as calculated according to section 3.9.1 of this appendix. Determine the quantities $\dot{Q}_h^{k=1}(17)$ and $\dot{E}_h^{k=1}(17)$ from the $H3_1$ test, and $\dot{Q}_h^{k=2}(17)$ and $\dot{E}_h^{k=2}(17)$ from the $H3_2$ test. Evaluate all four quantities according to section 3.10 of this appendix. Refer to section 3.6.2 and Table 11 of this appendix for additional information on the referenced laboratory tests.

b. Determine the heating mode cyclic degradation coefficient, CD_h, as per sections 3.6.2 and 3.8 to 3.8.1 of this appendix. Assign this same value to $CD_h(k = 2)$.

c. Except for using the above values of $\dot{Q}_h^{k=1}(Tj)$, $\dot{E}_h^{k=1}(Tj)$, $\dot{Q}_h^{k=2}(Tj)$, $\dot{E}_h^{k=2}(Tj)$, CD_h, and $CD_h(k = 2)$, calculate the quantities $e_h(T_j)/N$ as specified in section 4.2.3.1 of this appendix for cases where $\dot{Q}_h^{k=1}(Tj) \geq BL(T_j)$. For all other outdoor bin temperatures, T_j, calculate $e_h(Tj)/N$ and $RH_h(Tj)/N$ as specified in section 4.2.3.3 of this appendix if $\dot{Q}_h^{k=2}(Tj) > BL(Tj)$ or as specified in section 4.2.3.4 of this appendix if $\dot{Q}_h^{k=2}(Tj) \leq BL(T_j)$

4.2.7.2 For multiple indoor blower heat pumps connected to either a single outdoor unit with a two-capacity compressor or to two separate single-speed outdoor units of identical model, calculate the quantities $e_h(T_j)/N$ and $RH(T_j)/N$ as specified in section 4.2.3 of this appendix.

4.3 Calculations of Off-Mode Power Consumption

For central air conditioners and heat pumps with a cooling capacity of: Less than 36,000 Btu/h, determine the off mode represented value, $P_{W,OFF}$, with the following equation:

$$P_{W,OFF} = \frac{P1 + P2}{2};$$

greater than or equal to 36,000 Btu/h, calculate the capacity scaling factor according to:

$$F_{scale} = \frac{\dot{Q}_C(95)}{36{,}000},$$

where $\dot{Q}_C(95)$ is the total cooling capacity at the A or A_2 test condition, and determine the off mode represented value, $P_{W,OFF}$, with the following equation:

$$P_{W,OFF} = \frac{P1 + P2}{2 \times F_{scale}};$$

4.4 Rounding of SEER and HSPF for Reporting Purposes

After calculating SEER according to section 4.1 of this appendix and HSPF according to section 4.2 of this appendix round the values off as specified per § 430.23(m) of title 10 of the Code of Federal Regulations.

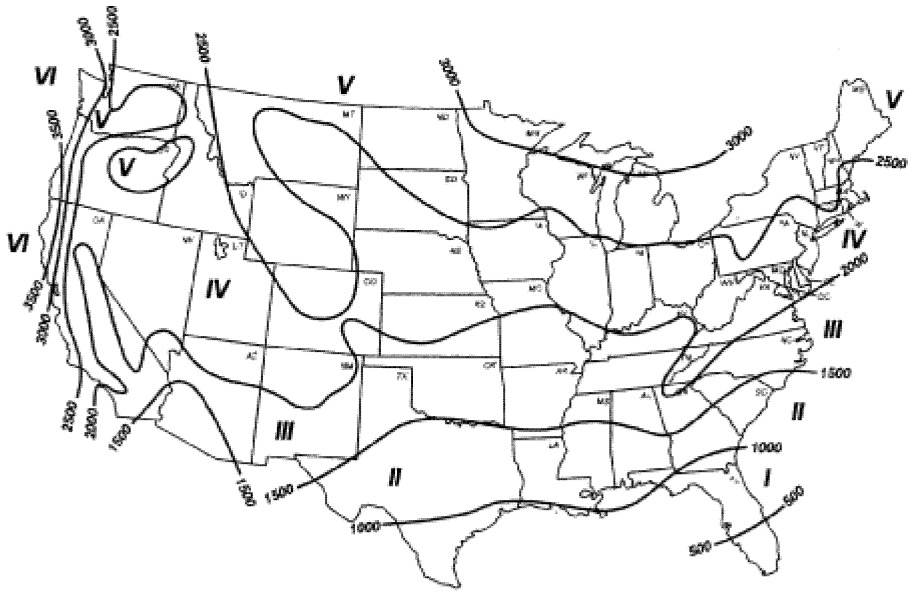

Figure 1—Heating Load Hours (HLH_A) for the United States

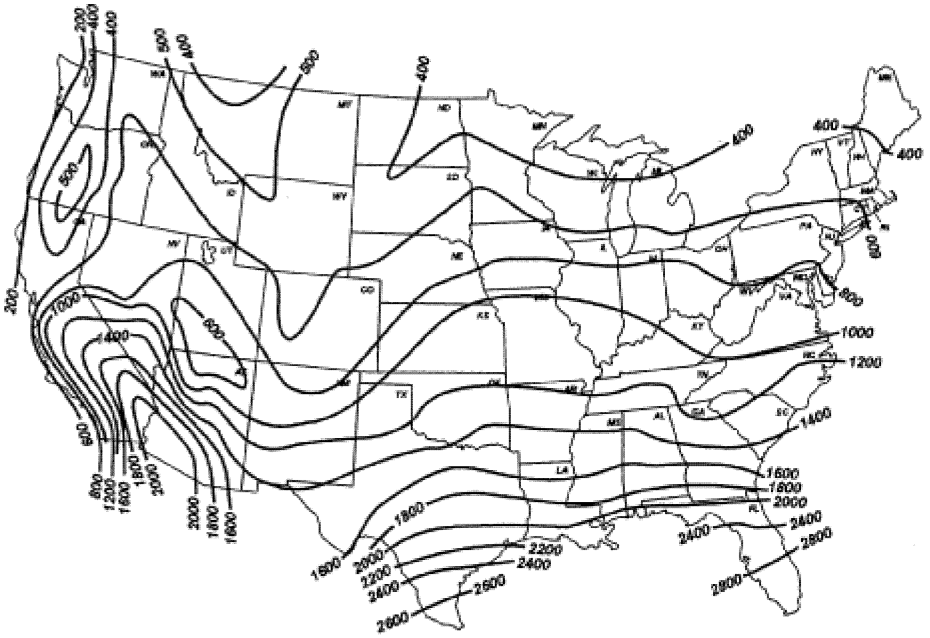

Figure 2—Cooling Load Hours (CLH_A) for the United States

TABLE 21—REPRESENTATIVE COOLING AND HEATING LOAD HOURS FOR EACH GENERALIZED CLIMATIC REGION

Climatic region	Cooling load hours CLH_R	Heating load hours HLH_R
I	2,400	750

TABLE 21—REPRESENTATIVE COOLING AND HEATING LOAD HOURS FOR EACH GENERALIZED CLIMATIC REGION—Continued

Climatic region	Cooling load hours CLH_R	Heating load hours HLH_R
II	1,800	1,250

TABLE 21—REPRESENTATIVE COOLING AND HEATING LOAD HOURS FOR EACH GENERALIZED CLIMATIC REGION—Continued

Climatic region	Cooling load hours CLH_R	Heating load hours HLH_R
III	1,200	1,750

TABLE 21—REPRESENTATIVE COOLING AND HEATING LOAD HOURS FOR EACH GENERALIZED CLIMATIC REGION—Continued

Climatic region	Cooling load hours CLH_R	Heating load hours HLH_R
IV	800	2,250
Rating Values	1,000	2,080
V	400	2,750
VI	200	2,750

4.5 Calculations of the SHR, which should be computed for different equipment configurations and test conditions specified in Table 22.

TABLE 22—APPLICABLE TEST CONDITIONS FOR CALCULATION OF THE SENSIBLE HEAT RATIO

Equipment configuration	Reference table No. of Appendix M	SHR computation with results from	Computed values
Units Having a Single-Speed Compressor and a Fixed-Speed Indoor blower, a Constant Air Volume Rate Indoor blower, or No Indoor blower.	4	B Test	SHR(B)
Units Having a Single-Speed Compressor That Meet the section 3.2.2.1 Indoor Unit Requirements.	5	B2 and B1 Tests	SHR(B1), SHR(B2)
Units Having a Two-Capacity Compressor	6	B2 and B1 Tests	SHR(B1), SHR(B2)
Units Having a Variable-Speed Compressor	7	B2 and B1 Tests	SHR(B1), SHR(B2)

The SHR is defined and calculated as follows:

$$SHR = \frac{Sensible\ Cooling\ Capacity}{Total\ Cooling\ Capacity}$$

$$= \frac{\dot{Q}_{sc}^{k}(T)}{\dot{Q}_{c}^{k}(T)}$$

Where both the total and sensible cooling capacities are determined from the same cooling mode test and calculated from data collected over the same 30-minute data collection interval.

4.6 Calculations of the Energy Efficiency Ratio (EER). Calculate the energy efficiency ratio using,

$$EER = \frac{Total\ Cooling\ Capacity}{Total\ Electrical\ Power\ Consumption}$$

$$= \frac{\dot{Q}_{c}^{k}(T)}{\dot{E}_{c}^{k}(T)}$$

where $\dot{Q}_c^k(T)$ and $\dot{E}_c^k(T)$ are the space cooling capacity and electrical power consumption determined from the 30-minute data collection interval of the same steady-state wet coil cooling mode test and calculated as specified in section 3.3 of this appendix. Add the letter identification for each steady-state test as a subscript (*e.g.*, EER_{A2}) to differentiate among the resulting EER values.

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